**Written contribution of the Hungarian NHRI to the general discussion on the right of persons with disabilities to work and employment**

The Hungarian NHRI appreciates the opportunity to share its own experiences through this general discussion on the right of persons with disabilities to work and employment. We sincerely hope that the information below will help the Committee in its elaboration of a General Comment on the right of persons with disabilities to work and employment.

In Hungary according to the official data the number of people living with disabilities in 2011 was 490 578, which covers 4.9% of the whole population. Experts estimates - illustrated by international surveys – ca. 10 % of the total population live with any kind of disability, so the valid number has to be in our country also higher, approx. 1 million people.

People (especially children) with disabilities and their families constantly experience barriers to the enjoyment of their fundamental rights and their inclusion in society. Their abilities are overlooked, their capacities are underestimated and their needs are given low priority. Yet, the barriers they face are more frequently the results of the environment in which they live rather than the result of their impairment. However, Hungary was among the first countries who signed and ratified the UN Convention on the Rights of the Peop le with Disabilities (CRPD) which brought a paradigm shift at national and international level in the field of disability policies: the former paternalistic, medical perspective have been turned to a social model with respect of human rights, despite of this welcomed development there is more need to be done also in Hungary. The social model of disability acknowledges that obstacles to participation in society and its institutions reside in the environment rather than in the individual and that such barriers can and must be prevented, reduced and eliminated. Environmental obstacles come in many guises and are found at all levels of society. They are reflected in policies and regulations created by governments. Such obstacles may be physical. e.g. barriers in public buildings, transportation, recreational facilities; and attitudinal – widespread underestimation of the abilities and potential of children with disabilities creates a vicious cycle of under-expectation, under-achievement and low priority in the allocation of resources.

In his “Dignity of Labour” (2012) project the Commissioner paid special attention to the employment of people living with disabilities, their circumstances and opportunities on the labour market. In the interest of a thorough investigation, the project proceeded on three main topics: the chances of the disabled people to enter the labour market, the working circumstances and conditions of their employment and the education system facilitating and supporting the employment and the work of people living with disabilities.[[1]](#footnote-2)

*Regarding the state of employment of people with disabilities the Commissioners report stated,* that on the one hand, there are developments in the legal background concerning disabilities; for instance in the field of the educational and rehabilitation programs, measures for accessibility, institutions supporting the mentally handicapped, local community care and home care service, measures for independent life conduct and the special legal remedies making people with disabilities possible to implement their rights. On the other hand, people with disability still suffer disproportionate exclusion from the labour market. In the interest of the efficiency of the inquiry, the Commissioner requested information from the Minister of National Resources, the labour centres of all government offices, the National Employment Service, the Equal Treatment Authority and several civil organisations representing the interests of people with disabilities.

As a result of the inquiry, the Ombudsman reported that although labour centres perform their tasks in accordance with the law, there are not many people with disability who visit the centres. Most of the labour centres are available for people with disabilities; however, the level of accessibility is different in the various groups. Unfortunately, the legal background misses to define “people with disability” and, as a consequence, there is no single registration concerning the employment of the people with disability. Job centres use a broader notion of persons with reduced work capacity, a notion which includes both persons suffering from health problems and persons with disabilities. The system of wage subsidy system needs substantial reconsideration, as its present form does not force employers to employ people with disability. It would be extremely important to strengthen the cooperation of civil organisations and labour centres. The experience of the past years shows that people with disability are rather open to the civil organisations, which help their employment according to elaborate models and programs. In the establishment of the complex system of rehabilitation one may also lay strong emphasis on the education of people with disability. In his project the Commissioner has found that *although there are positive changes in different rules of law, persons with disabilities are still disproportionately excluded from the labour market.*

The Commissioner also pointed out that the tendering system aimed at improving the employment situation of persons with disabilities in its current form is unpredictable and chaotic, it does not allow the elaboration and implementation of long term strategies for the promotion of the employment of people with disabilities. At the same time, setting up an unified registration system, covering all relevant aspects of the employability of the disabled people, would facilitate the elaboration of such strategies. The Commissioner requested the Minister for National Economy to pay special attention, together with the Minister of Human Resources, to the employment of people living with disabilities and initiate decisive measures in order to facilitate the integration of the disabled persons into the labour market.

*The Ombudsman’s inquiry into the working conditions of the disabled* *persons* established that, although the New Labour Code and the Act on Provision of the Rights of Persons Living with Disability and Equality of Opportunities adopted the concept of reasonable accommodation, the legislator failed to define the system of its content requirements. It is mainly because the resources and the supporting system necessary for creating the conditions of reasonable accommodations are not accessible for the employers. At present only accredited employers may apply for support from the central budget, the legislator intends to support non-accredited employers through the institution of the rehabilitation card and by freeing them from under the obligation to pay rehabilitation contribution.

The current, not so transparent and not well elaborated employment and support system still cannot ensure the implementation of labour safety guarantees for people living with disabilities. Therefore, the rights of persons with disabilities to human dignity and free choice of occupation are infringed on, persons with disabilities do not receive the protection stipulated in the Basic Law and the requirements of equal treatment and legal certainty are not respected. The current practice of the law and the activities of the various bodies enforcing the law create insecurity on many occasions. To grant remedy for this situation, the Commissioner requested the Minister for National Economy to work out, in cooperation with the Minister of Human Resources, the detailed rules of reasonable accommodation and to harmonize the support system designated to facilitate the employment of people living with disabilities.

*In the course of his inquiries into the education system,* the Ombudsman concluded that the training of people living with disabilities cannot be separated from their successful employment, so the competent ministries should pay particular attention to efficient cooperation and continuous consultation with each other. It turned out, however, that the ministries concerned distance themselves from one another referring to various legal regulations, accentuating their lack of competence in the given subject. It is clearly demonstrated by the absence of concrete measures aimed at implementing the National Disability Programme.

According to the Ombudsman, the absence of a clear and unambiguous regulation and a harmonized, hierarchical system of institutions under central guidance, supporting the training and employment of people with disabilities, can also be traced back to the absence of inter-ministry cooperation. The creation of a uniform system of regulations and institutions and the compilation of a list of various trainings with labour market relevance are also hindered by the absence of an extensive database which would keep track of the institutions providing training for people with disabilities. In the absence of an institutional framework, civil society organizations organize trainings for people with disabilities using money tenders, which is an unpredictable solution that cannot be planned in the long run. Although there are some equal opportunity tenders for people living with disabilities, the tender conditions usually put such restrictions on the range of prospective candidates that the civil society organizations interested cannot effectively participate in them.

The report concluded that there are no uniform regulations and institutions functioning in a coordinated way, under central control, that could support the employment and training of people with disabilities in an efficient and transparent manner. The current legal environment is not fully compatible either with the provisions of the Europe 2020 Strategy of the European Union or with the norms of independent life and social participation stipulated by the UNCRPD, promulgated by Act XCII of 2007 in Hungary. Disabled people may not be constrained in their access to the public goods available to the non-disabled people because of their disability. Because of their condition, they need to be supported so that they have equal chances and quality to exercise their universal rights.

This justifies the requirement of preference in all fields of the society, for which the public services have to be organized depending on the differing necessities of the various groups of disabled persons. It is not sufficient to determine the requirement of preference by legal means. The law applying organs have to ensure the conditions of the enforcement of these rights as well.

**Although the above mentioned conclusions were published in 2013, we are sad to report that the situation did not improve substantially. The Hungarian NHRI welcomes and fully supports the Committee's draft General Comment on the right of persons with disabilities to work and employment (article 27 of the CRPD) as we hope that the General Comment will serve as a useful tool in achieving progress on the field of work and employment during the national implementation of the CRPD.**

1. <http://www.ajbh.hu/en/web/ajbh-en/projects-in-2012>; reports AJB 2618/2012, AJB 5360/2012, AJB 4832/2012, AJB 3312/2013; in Borza Beáta, Kozicz Ágnes, Lápossy Attila: The Dignity of the Most Vulnerable; in Their Shield is the Law; Edited by: Barnabás Hajas, Máté Szabó; 2013., page 70. <http://www.ajbh.hu/documents/14315/131278/Their+Shield+is+the+Law/17e44afd-a9b2-4cf2-aef8-e6be42b2c0a5?version=1.0> [↑](#footnote-ref-2)