

People with Intellectual Disabilities: from Invisible to Visible Citizens of the EU Accession Countries

Emese Kovago

Emese Kovago works for Salva Vita Foundation, a Budapest-based human rights NGO.

‘We must not hand down to future generations a selfish Europe,
which is blind and deaf to the needs of others’

(Václav Havel)

Various human rights reports clearly show that, despite the existence of laws defending and protecting their rights, the rights of people with disabilities in the EU accession countries are frequently violated. Reasons for discrimination, mistreatment, and humiliations correlate not only with lacking legislation and Government policies, but with low public awareness as well. This article will focus on the rights of people with mental disabilities in Hungary and related governmental policy, from the perspective of a specific universal human right, the right to employment.

All EU accession countries must meet three basic criteria when applying for membership in the EU. One of these points, known as the Copenhagen criteria, requires the stability of institutions guaranteeing democracy, the rule of law and human rights, as well as the respect for and protection of the rights of minorities. The minimum criteria for a democratic system are: free elections, representative governmental institutions, regular constitutional opportunities for changing the governing officials, and accountability, whereby *all* citizens are entitled to be represented in social and political life, as well as to the recognition of and respect for their fundamental human rights.

Contemporary political theories analysing aspects of citizenship emphasise that democracy correlates with the phenomenon of *active citizenship*. One approach, which primarily focuses on minority groups but is also valid for other groups, argues that citizenship rights often do not cover every group’s interests, and that difference-blind considerations can threaten groups’ willingness to cooperate. Since citizenship is never simply a duty to obey and pay taxes but much more, “talk-centric” democracy enables participation and creates legitimate democracy and active citizens. *De facto* democracy functions only through the creation of possibilities for participation in social life and through political representation. As an *active citizen is a visible citizen*, the violations of human rights of people with disabilities and their lack of representation might lead to the conclusion that people with disabilities in many EU accession countries have very few opportunities to become part of the living society as *active and visible citizens*.

Human Rights and Human Wrongs – Employment and Education

Information on human rights violations, which in this case means no access to employment, may be gained through monitoring everyday practices, which naturally correspond with the political climate. Article 23 of the Universal Declaration of Human Rights states that, “everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work,” language that is reiterated in the Charter of Fundamental Rights of the European Union.

However, as the Hungarian Country Report on Human Rights of Persons with Intellectual Disabilities points out, the conditions for the employment of persons with disabilities are extremely unfavourable. [1] Reasons for this include inappropriate vocational training (available training often does not offer marketable skills), the lack of diverse workplaces offering long-term employment to people with disabilities, fair salaries and alternatives within the labour market, and a lack of tailor-made services. Therefore, the limited employment possibilities infringe upon the rights to employment, and just and favourable conditions of work. In order to combat human rights violations, in view of the current educational system and practice, *employment-based* curricula should be introduced, implementation of legislation should be enforced, and – as stated in the following section, integrated education should be broadened and cooperation with human rights NGOs improved.

The role of the civil sector cannot be overemphasised both in education and employment affairs. As stated in the *Understanding Human Rights – Manual on Human Rights Education*, [2] the impact of civil society that is represented by NGOs has been crucial for the development of the human rights system, and NGOs play a key role in the protection and promotion of human rights. In the employment sector, Hungarian NGOs assure various employment opportunities in day activity centres, or provide Supported Employment. Supported Employment,

which is a national programme, provides long-term support for both the employer and employee, offering specialised assistance to people with mental disabilities for work in the open labour market for proportional wages, without undermining their dignity.

The major obstacle is the huge gap between the education and employment of people with disabilities, since curricula in the schools do not provide the knowledge necessary to compete on the open labour market, although the good quality of education in special schools is recognised. Therefore, some NGOs train youngsters to attain the knowledge and experience required by employers. Only these programmes, which target the reduction of the gap between schools and workplaces, between NGOs and the Government, between professionals and legislation, and schools and the social service system, enable the conjunction of different sectors and actors. However, these innovative and pilot organisations' real work is just a slim piece of the imagined "cake" that is envisaged in the National Disability Affairs Programme, and without the Government's support and real cooperation, it is destined for a short life.

Problems in the Field of Legislation

Despite the fact that the accession countries generally implement strategies inspired by the European Community and participate in the EU programmes, adopted non-discriminatory programmes and well-constructed legislation are not sufficient to motivate the real implementation of best practices in Hungary. The Hungarian Constitution for instance prohibits any sort of discrimination, and various legal documents enable people with disabilities to work in the open labour market, but only in theory. If the legislation, implementation, and monitoring do not function adequately, there is little possibility for changing attitudes and raising the awareness of the wider public.

Three basic laws regulate employment affairs. Under the Hungarian Labour Law (Law 8/83), a quota-system came into force, prescribing that in every workplace employing more than 20 workers, five percent of the staff must be employees with changed work capacity. Employers not complying with this law must pay a rehabilitation contribution, which in practice is too low to act as an effective sanction. Act XXVI on Equal Opportunities and the Rights of People with Disabilities (1998) is generally considered to be adequate since it defines the means by which employment rights and a complex rehabilitation system can be guaranteed, but without implementation it is of no value. The lack of an elaborated strategy, with clear responsibilities and accountability, inter-ministerial communication and agreements, and the proper monitoring of processes and standards obstruct progress towards equal opportunities for disabled people.

For many people living with a disability, to achieve the vocational level necessary to obtain and retain a job is extremely challenging. These challenges can be met only by coherent "action-packages." Every EU member focuses on people with disabilities, and furthermore, has developed means to support their integration into the labour market in accordance with preventive and active policies. The Hungarian Government, inspired by EU policies, aims to accelerate integration into the labour market for as many disadvantaged group-members as possible, within the framework of the European Employment Strategy (part of the National Development Plan, Human Resources Development Operational Programme). The National Employment Plan of 2000 already follows the four European strategic pillars: improving employability, reinforcing the entrepreneurial spirit, developing the adaptive ability of entrepreneurs and employees, and strengthening the policy of equal opportunities. [3] Although the Government complies with EU guidelines and trends such as partnership and inter-sectoral cooperation, the Law on Employment for the State Labour Offices impedes the development of real and complex collaboration between the civil sector. State Labour Offices have the opportunity to work with sub-contractors (i.e. NGOs) regarding sub-tasks, but cannot provide support for complex NGO services such as Supported Employment, or focus on individual and tailor-made support for the users.

In Hungary, unlike some other applicant countries such as Romania, the legal background is well elaborated and established but does not function in practice. The Inclusion Europe Human Rights Observer in March 2002 cites the word of the European Commission, which claims that in Hungary implementation of the new laws is still a challenge, and services for people with disabilities are still limited. [4] This tendency is attributed to weak inter-sectoral cooperation, the lack of strict EU monitoring, and weak self-advocacy of the service users. Without full implementation of these laws, people with disabilities will not have opportunities to obtain and retain a job, to enjoy equal access, to be represented, and thus, will not become visible for the society and enjoy their right to employment.

Conclusions and Recommendations

According to the International Labour Office Report from 2001, [5] a steady increase in the number of employers hiring persons with altered work capacity can be observed in Hungary. The majority of the employers providing work opportunities are small and medium enterprises. The report indicated that people with disabilities show keen interest in availing themselves of the training and rehabilitation services that are provided by job centres and NGOs, although the necessity for sheltered employment remains significant. [6] But, as the Inclusion Europe Report 2002 already has argued, establishment of the Supported Employment system is necessary for people with adequate work abilities, as well as synchronised vocational training prior to employment, organised activities, improved conditions in workplaces, and making firms interested in the situation of people with disabilities.

Based on the problems described above, in order to make the existing laws valuable, raise public awareness, improve the quality of life of disabled persons and to make them *active and visible*, recommendations could be as follows:

- The Hungarian legal framework inspired by the European policies is well established and clearly defined; however, its implementation is still a challenge. In order to put its provisions into practice, the Government should focus on improving the information flow, on inter-ministerial coordination (Employment, Education, Social and Family Affairs, and Governmental Office for Equal Opportunities). The state sector should describe and define financial criteria and develop and support more and more norm-based alternative services.
- Regarding the transparency of the Government's achievements, a clear strategy, setting out accountability, defined responsibilities, and strict monitoring requirements should be developed. Amongst the tasks and duties possessed by the Ministries there must be concrete:
 - strategy-building and action plans,
 - best practice dissemination,
 - regular inter-ministerial discussions and reconciliation,
 - open forums guaranteed as a tool for transparency and societal control, and
 - endorsing bottom-up approaches enabling NGOs development.
- Regarding the NGOs, direct advocacy in Brussels endorsed by strong partnerships should be emphasised, which would enable the dissemination of best practices and strengthen the pressure on national Governments. In addition to dynamic lobbying processes, civil society should focus on the development of a common strategy for awareness-raising.
- Regarding the EU policy and accession, the Union should focus on the control and monitoring of the Ministries that should implement the relevant laws in practice. The EU should provide accession countries with practical support in order to adapt the EU practices at the national level. One possible way would be to monitor implementation of the law, and the Government or the responsible Ministries could react to data collected in monitoring by elaborating various action plans. Based on collected results, practical methodologies should be developed on a multilateral basis involving all the stakeholders. Several years of testing, continuous monitoring, and final evaluation should follow. When completing the development of a methodology, proposals should be addressed to the national Governments; thus, best practices from the Union and accession countries should be disseminated. The EU should oversee this process, and, when gaining best practices, inspire member states to continue with their implementation and dissemination. In this way all the stakeholders would obtain the necessary knowledge to prepare for and

work with EU practices and become familiar with these practices; so, by ongoing co-operation and partnerships implemented laws could be realised and disabled people can be fully visible and active citizens.

Footnotes

[1] Inclusion Europe, *Human Rights of Persons with Disabilities, Country Report Hungary*, January 2002. The European Association of Societies of Persons with Intellectual Disability and their Families and ÉFOÉSZ. Available here: <http://www.inclusioneuropa.org/>

[2] W. Benedek, M. Nikolova, eds., *Understanding Human Rights – Manual on Human Rights Education*, Human Security Network, Graz: Impressum, 2003.

[3] 1040/2000. V.31. *Hungarian Gazette* NR. 2000/52.

[4] Inclusion Europe – Human Rights Observer. *Advancing the Human Rights of People with Intellectual Disability in Civil Society*. Issue March 2002.

Available here: <http://www.inclusioneuropa.org/>

[5] International Labour Office, *Vocational Rehabilitation and Training in EU Accession Countries*. Seminar Report. European Commission, Heidelberg, May 2001.

[6] For more information on ILO recommendations and sources visit this address: <http://www.ilo.org/>. A document called 'Draft Code of Practice on Managing Disability in the Workplace – Tripartite Meeting of Experts on the Management of Disability at the Workplace,' published by the ILO in Geneva in October 2001, describes and proposes concrete actions and plans regarding the topic. Available here:

<http://www.ilo.org/public/english/employment/skills/isability/draftcode.htm>.