



ENSPER position paper relating to the UN “Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities” - prepared for presentation to and consideration by the EU delegation to the Ad Hoc Committee meetings and the Commission for Employment and Social Affairs.

This paper has been drafted to aid and provide advice to the respective EU delegation attending the UN Ad Hoc Committee Disabilities whenever the following Articles are discussed. This paper has been prepared prior to the 6th AHC meeting due in August 2005 and changes that take place at that meeting will be considered again as soon as practicable after that AHC meeting.

ENSPER focuses its attention on areas affecting the provision of services to people with disabilities in the field of employment and rehabilitation and therefore has a special interest in Articles 17, 21, 22 and has only commented on these articles rather than any other articles in the Draft Convention.

ENSPER does however wish to state very clearly that the Convention in its totality is supported by the partner organisations that make up ENSPER and is considered to be an essential development in achieving full social inclusion for people with disabilities across Europe and the rest of the world.

ARTICLE 17 Right to Education

ENSPER sees this article as supportive of the right to access employment which will be dealt with in Article 22 and as an integral part of rehabilitation services referred to in Article 21 especially where additional learning and life skills and vocational skills are required to be introduced as part of an individuals' personal and agreed route to social and economic inclusion and sees the inclusion of a right to vocational training as essential pre requisite for people with disabilities to prepare for work. This is separate and distinct from vocational training and learning opportunities in the workplace which should be embraced in Article 22.

Additionally ENSPER believes that there should be specific inclusion of sign language in this article. We are concerned that sign language for deaf people should not be seen as an "accommodation" but as a language in itself. ENSPER bases this position on a desire to see more people with disabilities attain recognised qualifications to assist them in accessing work and employment when it is appropriate to do so and the use of appropriate and specific language skills is vital to achieving these standards.

ENSPER is therefore pleased to see that sub paragraph 5 of Article 17 specifically includes the right for people with disabilities to access "vocational training". ENSPER supports the EU recommendation that "secondary" and "tertiary" education are referred to separately in this sub paragraph.

However in relation to sign language we would prefer that the original draft should apply and that sub paragraph 4 should read "State parties shall ensure that children with sensory disabilities may choose to be taught sign language or Braille, as appropriate, and to receive the curriculum in sign language or Braille. State Parties shall take appropriate measures to ensure quality education to students with sensory disabilities by ensuring the employment of teachers who are fluent in sign language or Braille"

ARTICLE 21 HEALTH & REHABILITATION

ENSPER is very clear that this article needs to be changed to separate HEALTH from REHABILITATION. The current inclusion of both issues under one heading gives the impression that Rehabilitation relates solely to health issues or services and in our extensive experience this is just not true. Rehabilitation services are more than health processes and include vocational training and work experience, development of life skills and the development of self confidence amongst other things.

Secondly the inclusion of these two issues as a joint heading reinforces the traditional view of a “medical model” relating to disability issues when in fact most people and nations accept that the issues relating to the inclusion and independence of disabled people in society and at work are socially based and not medically based.

We therefore propose that there should be two articles to cover the points currently made in what is currently described as Article 21.

Firstly there should be a specific article “RIGHT TO HEALTH” which relates to a right to access mainstream healthcare and which will deal with issues of discrimination against people with disabilities both in terms of treatments and in services provided.

*Secondly there should be another specific article - “RIGHT TO HABILITATION AND REHABILITATION”- which relates to access Rehabilitation services in any form required to enable the individual person achieve greater inclusion in society through whatever route is appropriate. ENSPER is also sensitive to the issue raised by people with disabilities that the processes involved for some people are not about **re** habilitation but about accessing inclusion for the first time through **habilitation**.*

ENSPER therefore proposes two new drafts:

ARTICLE 21 RIGHT TO HEALTH

States Parties shall:

- a) *provide people with disabilities with the same range and standard of health services as provided to other people, including sexual and reproductive health services;*
- b) *ensure that all health care, health services and public health campaigns, including alternative health care, are provided without discrimination and are fully accessible for people with disabilities;*
- c) *ensure that health services include choice among different treatment options, second opinions, counselling, therapies, peer support and other services including services provided by organizations of people with disabilities;*
- d) *promote the appropriate education and training of health professionals including people with disabilities, to increase their knowledge and respect for the rights, dignity and needs of people with disabilities, in line with the principles of this Convention;*
- e) *ensure that people with disabilities have access to their unedited health and medical records, and are entitled to give or withhold consent to disclosure of this information to third parties, on an equal basis with others;*
- f) *ensure that people with disabilities receive all health and medical information in accessible formats, modes, means and languages;*
- g) *ensure that people with disabilities are afforded the opportunity to give or withhold free and informed consent to health services at any point in the course of treatment, on an equal basis with others;*
- h) *ensure that health care is not rationed on the basis of disability.*
- i) *promote the participation of people with disabilities, and their organisations at all levels in the commissioning, conduct and management of health ethical codes, health research, preparation and monitoring of health legislation, the formulation of health policies and strategies.*
- j) *promote the joint involvement of people with disabilities and service providers in the planning, delivery, evaluation and monitoring of all health services.*

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ARTICLE 21, bis RIGHT TO HABILITATION AND REHABILITATION

1. State Parties shall ensure that:

- a) *Rehabilitation and habilitation are fundamental concepts that are implemented in a national disability policy;*

- b) *A comprehensive range of habilitation and rehabilitation services is provided to enable people with specific disabilities to adjust to the impact of their disabling conditions and acquire the skills that are required to lead inclusive lives in the community.*
- c) *People with disabilities have the opportunity to provide expert advice either as individuals and/or through their representative organizations alongside service providers in the formulation, implementation, monitoring and evaluation of habilitation and rehabilitation programs;*
- d) *People with disabilities have the opportunity to direct their individual habilitation and rehabilitation plans, based on their personal needs, life goals and personal aspirations;*
- e) *People with disabilities are not required to participate in habilitation and rehabilitation programmes against their wishes;*
- f) *Habilitation and rehabilitation services are provided in the community of residence, include an option of using programs and activities available to the general public to meet habilitation and rehabilitation needs, and an option of Community Based Rehabilitation Services (CBR) where appropriate;*
- g) *The privacy of personal information within the framework of these services is respected;*
- h) *That a sufficient number and range of professional workers are trained and employed to provide effective services*
- i) *That quality standards which uphold the principles of this convention are applied to the providers of any form of habilitation or rehabilitation services*

ARTICLE 22 RIGHT TO WORK

ENSPER takes the view that this is an absolutely essential article as part of establishing the full economic and social inclusion of people with disabilities.

We take the view that crucial to this point is the need for the convention to embrace the principle of non discrimination and for the convention to build in support for the concept of reasonable accommodation and state support for that concept in the form of appropriate funding processes to overcome social and physical barriers to work.

ENSPER is keen to see the article apply to all forms of work and employment so that people with disabilities do not feel disadvantaged in any aspect of work and/or work experience they choose for their personal development. Paid and contracted work is central to this article but we do not want to exclude any other forms of work that an individual may choose to pursue as part of their personal career development whether it is paid work or not.

It is essential that the article provides for support for people with disabilities in developing their career and the objective must be to enable people with disabilities to have the same opportunities for career development as any body else when at work. ENSPER does not believe that accessing work is the only purpose of this article. ENSPER believes the spirit of the article is about achieving full economic and social inclusion through the medium of work and employment.

ENSPER places the emphasis in this article on full inclusion of people with disabilities in work and embraces in that belief the importance of special workplaces (traditionally known as Sheltered Workshops) as part of the rights that are covered in the article. ENSPER recognises that there will be a continuing need for special measures including special workplaces unless and until full equality of opportunity is achieved in the labour market. This requires a considerable change in attitudes and culture amongst employers and in society at large and it is part of the purpose of this article to assist those changes.

ENSPER therefore recommends the following draft article:

ARTICLE 22 RIGHT TO WORK & EMPLOYMENT

States Parties recognise the right of persons with disabilities to work and to gain their living by work which they freely choose or accept. State Parties shall take appropriate steps to safeguard and promote the realisation of this right, including measures, which apply both to public and private employers as well as to all forms of employment, to:

- a. - Protect through legislation persons with disabilities, from discrimination with regard to:
 - Access to employment and self-employment, including selection criteria, recruitment conditions and promotion;
 - Provide for vocational guidance and training, including practical work experience;
 - Provide equal employment rights and working conditions, including health and safety, dismissal and pay, based on the principle of equal pay for work of equal value;
 - Allow membership of an organisation of workers or employers.*
- b. Ensure through legislation that the denial of reasonable accommodation in the workplace is considered as discrimination and that public funding is available to finance these accommodations. Reasonable accommodation in the workplace includes the adaptation of premises and workplaces, the provision of special equipment, the change in patterns of working time, the provision of support workers and redistribution of tasks.*
- c. Undertake actions to promote the employment of persons with disabilities, through the provision of positive labour market measures including through the provision of financial incentives where appropriate*
- d. Ensure that all employment, placement, self employment and vocational and continuing training services are accessible to persons with disabilities.*
- e. Provide a wide range of employment support mechanisms and processes to allow persons with disabilities of working age to participate in the labour market.*
- f. Ensure through legislation access to rehabilitation which encourages continuing employment for those who acquire a disability when in work*

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