

**Rights of people with disabilities :
Fact sheet on Article 15 of the
Revised European Social Charter**



The right of persons with disabilities to independence, social integration and participation in the life of the community

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

- 1. to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;*
- 2. to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;*
- 3. to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.*

All provisions of the Charter are applicable to persons with disabilities. Article E of the Charter, the non-discrimination clause, provides: "The enjoyment of the rights set forth shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status." This prohibits discrimination, inter alia, on the ground of disability. This requires that persons with disabilities have equal access to the rights guaranteed by the Charter. Article E not only covers direct discrimination but also all forms of indirect discrimination. Indirect discrimination may arise by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all.

In addition the Charter guarantees in Article 15 specific rights relating to persons with disabilities.

Article 15 applies in respect of all disabilities; physical, mental and intellectual. Its overall aim is to ensure the effective exercise of the rights to independence and social integration. The underlying vision of Article 15 is one of equal citizenship for persons with disabilities.

Para 1 - the right to education and training

All persons with disabilities have a right to education and training. Education encompasses general education; basic compulsory education and further education as well as vocational training in the traditional sense.

Persons with disabilities (children, young persons and adults) should be integrated into mainstream facilities; education and training should be made available within the framework of ordinary schemes and only where this is not possible through special facilities. Education in special schools or adapted education in mainstream schools should be of a sufficient quality.

Under this provision of the Revised Charter non-discrimination legislation in relation to disability in the field of education is required. Such legislation should as a minimum require compelling justification for special or segregated educational systems and confer an effective remedy on those who have been found to have been unlawfully excluded, segregated or otherwise denied an effective right to education.

Para 2 - the right to employment

This provision requires states to guarantee access to employment on the open labour market for persons with disabilities. States enjoy a margin of appreciation in the measures they adopt to enable this, however anti-discrimination legislation and protection against dismissal is required.

Sheltered employment facilities must be reserved for those persons with disabilities who cannot and only by reason of their disability be integrated into the open labour market - should be the exception-and should aim to assist workers to migrate to the open labour market. People working in sheltered employment facilities, where production is the main activity, must enjoy the usual benefits of labour law and in particular the right to fair remuneration and respect for trade union rights.

Para 3 - the right to social integration and participation in the life of the community

The third paragraph¹ obliges states to adopt a coherent policy in the disability context: positive action measures to overcome the barriers to communication (which includes telecommunications and new information technology) and mobility in order to enable access to transport (land, rail, sea, air) housing (public, social and private), cultural activities and leisure (social activities and sporting activities). Such measures should have a clear legal basis, people themselves should have a voice in the design, implementation and review of such measures and there must be non-discrimination legislation providing effective remedies in relation to disability covering all areas mentioned in this paragraph.

In Collective Complaint No 13/2002 Autisme Europe v. France, the European Committee of Social Rights found a violation of Articles 15§1 and Article 17§1 (right of children and young persons to social, legal and economic protection, including the right to education), (whether alone or in conjunction with Article E (non-discrimination)) of the Revised Charter on the grounds that France had failed to achieve sufficient progress in advancing the provision of education for persons with autism.

¹ This provision is only found in the Revised Charter.