

Article 9.

1) To accessibility (for disabled persons):

This is a fundamental obligation although institutions sustained by local self-governments have poor financial resources (also admitted by the commentary). In places where a simple (mobile) ramp is unavailable accessibility is only feasible at very high costs. A possible initiative would be the formation of „funds” connected to individual institutions that could invite donations of the disabled persons themselves. All donations are valuable whatever their amount will be. If the institutions has its own foundation it could collect money. Several institutions get support through their foundations (e.g. schools collect donations from parents who consider a given purpose as important.) This seems to be a more effective solution than just to wait for eventual funds of self-governments or the central administration. Not only monitoring should be developed into perfection and to introduce several kinds of sanctions but attention of the disabled persons directly involved has to be drawn to the fact that „civic solidarity” is also an adequate means for improving their own situation. Moreover the European Union could also offer more subsidy in order to meet the obligations promised by the covenant. A far approach requires adequate subsidies (on the level of the covenant) in case an active – and rather expensive – way of conduct has been prescribed. (Another issue is the sole prescription of legislative tasks or the abolition of an existing „bad” practice.) Similarly by other forms of accessibility – e.g. by special informational contents.

2) Employment: when comments have been made concerning the overall context of accessibility detailed in article 9 of the covenant (the main frame of interpretation being equality and lack of any discrimination) the strengthening of accessibility to work could also be mentioned (employment and work are analysed in detail by article 27 of the covenant.) To this effect the tendency of automation of processes that could be carried out by human workforce as well (while stigmatizing „living fork force” as outdated) should also be abolished. E.g. the automated borrowing of books in libraries or automated cash desks in hypermarkets. This is not to propose to restore manufactures instead of mass production and the conveyor belt; it is just to warn against the futuristic exuberances of this tendency. A totally equal accessibility of all jobs is of course could and should not be expected (take e.g. an extreme case: blind persons cannot be employed as air traffic controllers).

Article 12

- 1) The commentary prescribes that involved states should take action to prevent non-State actors and private persons from interfering in the ability of persons with disabilities to realize and enjoy their human rights, including the right to legal capacity. (part III: Obligations of States parties, 20, p. 6) This is a surprising statement. It suggests that private persons (who can be family members as well) or non-State organizations (e.g. civic interest groups) potentially endanger persons with disabilities who can only trust the states. This should be formulated otherwise or omitted altogether for being displeasing. It is by no means understandable why an otherwise „liberating” and liberal covenant suddenly should take up such a paternalistic attitude (which it had opposed previously).
- 2) Supported decision-making: not only supported persons should be compassed around by guarantees; supporters could also need some sort of defence; e.g. a precise description of their responsibilities. (Abuse and illegal practices are by no means uni-directional.)
- 3) As to forced treatment: the overall rule is comprehensible but very severe, dangerous situations can occur that entail enforcement against the person involved (who can also be endangering both against him/herself and others). Whether only police interference and the penalty system can be relied upon in these cases? Medical support and/or hospitalization is impossible? Whether the person involved fares better with the penalty regime notwithstanding her/his pathological symptoms? The scope of this institution ought to be circumscribed by severe guarantees.
- 4) As to franchise: why is it that a minor who can have better mental capacities than a mentally retarded adult should have less rights; why is it that nobody is fighting for his/her rights to take part in actions and decision-makings the attainment of which is an integral part of the struggle for the rights of persons with disabilities? Is this perhaps a discrimination based on age? If restriction is a serious problem by persons with disabilities why this is not so by them, i.e. minors?