



UN - CRPD - FRANCE - Private Meeting 16 August 2021 Questions by Committee members - answers to be submitted by 18 August

Answers from Handi-Social Association :

Jonas RUSKUS

You mention the medical model of disability. But about the mechanism of assessment and determination of disability. How does it work in practice?

The evaluation of disability situations is based on 2 reference systems: annex 2. 4 of the code of social action and families for the determination of the disability rate, and annex 2. 5, which is the PCH (Prestation de Compensation du Handicap) reference framework.

The first is used to set a percentage of disability, with different brackets, from zero to 50%, a very slight disability, from 50 to 79%, a disability with a notable hindrance in daily life in particular, and from 80% onwards, a significant disability. These are not the exact terms but I am trying to simplify. For the PCH, which is used to finance human assistance, i.e. people to accompany the person at home, technical aids such as wheelchairs and prostheses, adaptations to the home or vehicle, etc., there is one main criterion: to present an absolute difficulty or to present 2 serious difficulties for various so-called essential acts of daily life, such as eating, washing, dressing, transferring, etc. And so to be entitled to human assistance on a daily basis, you must already have a fairly severe disability, which excludes a lot of situations where people would need help. The needs are mainly related to physical disabilities, and for mental disabilities, the quotas of hours are clearly insufficient. It is even worse for people with cerebral palsy and for people with a cognitive or mental disability who are hardly entitled to anything, unless they also have a physical disability.

In France, we do not assess your needs to find solutions to enable you to participate in society by having accessible housing, personal assistance for all essential acts but also to be able to lead a social and family life, no, we just ensure your survival: eating, sleeping, washing and still not well.

You can find the 2 reference documents in question here: <https://www.handi-social.fr/combats-d-handi-social/defendez-vos-droits--page-524>

On what scale was the 2005 law harmonised with the CDPD? How did the DPOs participate in this?

There was no harmonisation of the 2005 law with the UN convention. On the other hand, there have been setbacks, notably on accessibility but also on the compensation of disability, which you seem to call reasonable accommodation.

How did the organisations participate?

You would first have to define what you call disabled people's organisations! If you are talking about management organisations that have a so-called militant facade because they have some disabled people on their Board of Directors, yes, they certainly participated. On the other hand, the associations of people with directly concerned, self-represented, are never invited to the elaboration of the texts and to their discussion.

In no report is there any information about measures on de-institutionalisation, including of children. Is it true that there is no strategy? If not, why is there no such policy?

Yes, there are no measures, let alone a strategy. The only progress that can be made is the result of the struggles of small associations like ours, that is to say associations that do not manage any establishment or service and that have no conflict of interest with the state.

This is precisely because it is the management organisations that get along with the state and local authorities (the departments and regions) and these management organisations have a vested interest in pursuing institutionalisation and the state has a vested interest in letting these associations do so. The institutions are too dependent on the state, and for the state it is easier to let the associations take care of disabled people. It suits everybody, except the disabled. And if we complain, we are repressed, and you won't see any management association being indignant that people with disabilities, for example, can be tried without respecting their right to a fair trial, without accessibility and without reasonable accommodation.

Whether it is the State or the departments, they continue to devote about 75% of their resources to institutionalisation, as I have seen in Haute-Garonne, but this is the case in all departments to a greater or lesser extent. In addition, there is still a very strong belief in France that it is not possible to live in society when you have a severe disability, whereas it is impossible today in France precisely because there are no services in terms of quality and number. All the means are devoted essentially to institutions which are very, very powerful in France. I invite you to read all the links I have put in the alternative report by HANDI-SOCIAL, which refers you to concrete situations and examples. I could also provide you with many other documents and much more evidence of what I am saying.

There are some new strategies on disability (like the disability plan 2017-2022, the strategy for employment by people with disabilities and for facilitating autonomy). How effective are these strategies in relation to the convention? Are there effective strategies that can be commended?

France is a specialist in plans, which are communication, and which are almost never the reality. For example, on employment, France has a mechanism that gives financial sanctions for companies with more than 20 employees that do not have 6% of disabled workers. These financial penalties are intended to finance aid and reasonable adjustments to enable disabled workers to work in companies.

Instead of using the money for this, France has regularly taken money from the fund to pay for e.g. security agents to fight terrorism. Or many other things that have nothing to do with disability. So in France they announce that they are taking measures and then they allocate the money to other measures. It's very French. And there is a very strong complicity between the management organisations, the state and the departments and the social security funds. There is a caste of senior civil servants in France who navigate between all these organisations and the medico-social associations.

The only positive point in recent years is the extension of the duration of rights in the MDPH, Maison Départementale des Personnes Handicapées. These MDPHs lack resources, but despite this, they used to oblige people with permanent disabilities to justify their rights with very heavy files every 2 to 5 years. Now they can grant rights for life, but this remains limited. It's better for the beneficiaries, but it's also better for the administration which has less work.

What are the major obstacles to inclusive education?

The lack of material and human resources. Lack of compulsory training for teachers on inclusive pedagogies. Assistants who are very precarious and only come for a few hours and change all the time. Many schools are still inaccessible. Prejudice. And the idea that not all children can or need to go to school.

For France, the important thing is to be able to say that more and more children are going to school but without talking about the conditions of this schooling. You just have to fill in the tables. And children who go to school for half a day are counted as attending school!

What is your opinion on the degree of participation of DPOs in the monitoring function of the national monitoring mechanism (33(2)).

If for you DPOs are the associations of the people directly concerned, and the associations of parents and relatives, and if these associations have no interest in the management, which is very costly and not very respectful of rights, then this is the zero degree of participation, except for a few such as HANDI-SOCIAL and others who have participated in a few meetings, who manage to be a little more informed and who are particularly combative, associations that impose themselves by using media pressure.

KABUE

Article 28 on social security and independent living: benefits given to disabled people are allocated according to the income of the spouse - can you give more information?

I will give you an example. All people who cannot work or cannot work enough are entitled, if their disability is severe, or if it has a lot of professional consequences, to a maximum allowance of €903 per month. This is below the poverty line. The same person, often a woman, if she lives, married, cohabiting, or sharing her home with a person who earns no money, or just the subsistence minimum, she will keep her allowance. If she lives with someone who earns the minimum wage, she will only get about half her benefit. And if she lives with someone who earns less than €2,000 (for a minimum wage of about €1,200 in France, which allows just the minimum), the woman will get nothing. The result is that both people will end up living below the poverty line. This leads to violence and humiliation. It is the same system for poor people with psychosocial disabilities. On the other hand, a disabled woman who lives with her parents, like the daughter of the minister for disability, continues to receive her full benefit even if her mother is a minister or CEO.

What is the link between DPOs and the state? How often can these organisations give their views on disability issues?

The managing associations, including those that have put disabled people on their boards (I have experienced this personally in the APF) have a good relationship with the State. They meet quite regularly. On the other hand, the associations of people directly concerned are only consulted for the sake of form, on the occasion of big meetings or those who receive subsidies are very accommodating.

For example, HANDI-SOCIAL, which has expertise in rail transport, both technical and legal, was refused permission to take part in the SNCF commission where people with motor disabilities are represented by an able-bodied person who does not have a good grasp of the subject. For example, one of our members urinated on himself in a high-speed train and filed a complaint: he was rejected by the French Supreme Court, which considered that because the SNCF had obtained new deadlines from the State for making the facilities accessible, our member should continue to be unable to enter the train's toilets with his electric wheelchair and close the door. French justice has not considered that not being able to go to the toilet is discriminatory. But when we go to Spain or Switzerland, the high-speed trains have toilets that we can use normally. And normally the trains should be accessible in 2024, but given the accumulated delay this will not be the case and the

government will give new deadlines by explaining that it was too complicated... but we will continue to explain to you that France is the country of human rights...

GERTRUDE FEFOEME

Question on representation and accessibility: Generation Equality Forum organised by France in Paris in June 2021. Were the associations involved? The platform was not accessible. Did you suffer from this too? Do you have any suggestions to address this?

We are used to the fact that in France most of the colloquiums and conferences that talk about us are done almost without us, or just with one or two people who serve as guarantors. In France we need laws like in some Anglo-Saxon countries or even in Spain I think, where when we are discriminated against in access to goods, services and buildings, we can lodge a complaint, and it costs so much to those responsible, that they are obliged to make our country and our organisations accessible. But in France, even the justice system does not respect the law. For example, the Ministry of Justice is not able to produce the document that has been obligatory since 2015 and which describes the work it will carry out to make all the courts in France accessible, indicating the timeframe and the amount of work. Yet it is the same justice system that sentences people who are permanently restrained for one hour to suspended prison sentences for carrying out non-violent civil disobedience actions. And when you demonstrate peacefully, you can end up as a victim of police violence with 5 broken feet.

What other points would you like to make?

There are far too many. Go and read in detail the report of the Coordination Handicap Autonomie, of clé-autiste and of the autistic alliance. There are other reports that are good. But look at the difference between the management associations and us.

For example, how do you explain that very small associations, such as Mobilité réduite, regularly have municipalities and departments condemned before the courts for poorly done work on roads, but that the very powerful management organisations that claim to be activists never bring any of these cases to court and let them go ahead. For example, HANDI-SOCIAL has obtained from the Toulouse metropolis the carrying out of a census of accessible housing, even though the law has obliged it to do so for 15 years, but only 2 cities have done so. On the contrary, the managers send to the commissions for disabled people people that they do not train properly, and sometimes people who are flattered to be invited, or simply happy to be able to get out of their homes a little, but who are ineffective.

AMALIA GAMIO

When parents decide to continue with a pregnancy of a person with down syndrome, 45% of doctors react negatively. Do you have a reaction to this? I am concerned about the issue of privacy of disabled people.

HANDI-SOCIAL defends the right to abortion. However, we are concerned that a majority of French doctors, according to our estimates, advise parents against continuing the pregnancy when there is a diagnosis of trisomy 21. Instead of giving all the means to these families to be able to educate these children with all the necessary arrangements. Especially since families who manage to support their children in France despite all their difficulties, show that children with intellectual disabilities, cognitive disorders, or other problems can have a happy life if they receive the appropriate education.

Decree 412, on databases that equate people with psychosocial disabilities with terrorists. (Advocacy France has the details here)

The government and the media mix up terrorists and mentally ill people.

French society denies dignified living conditions to mentally ill people and many live on the streets. They can alternate between forced hospitalisation and the street.

But advocacy will surely talk about it much better.

Information from public and private companies in the Paris region to evict people with psychosocial disabilities from their homes (unpaid rent, poor condition of the house, etc.)

There are more and more people in France who end up living on the street, or in squats. And now a new law is going to punish with severe fines the rough sleepers who try to find accommodation in empty buildings.

SCHEFER

Art 4 - Great restraint regarding the French justice system's direct application of the HRC - what are your experiences in this context?

The convention has not been translated into French law at all. The French magistrates are unaware of it. Just as French magistrates are unaware of disability, so are the courts.

Art. 13 - Legal aid for people with disabilities is not sufficient. The current revisions do not seem to change the problem. What adjustment measures currently exist to make equal participation of people with disabilities in legal proceedings possible?

There are 2 problems: legal aid is not accessible to the most severely disabled people, those who receive a supplement of the Allocation Adulte Handicapé and who exceed the ceiling of legal aid. In addition, legal aid does not allow for an experienced lawyer. The amount is far too low and it is less than the cost of even the worst lawyer's work.

What are the measures to guarantee all the rights of disabled people accused of a crime? And for the victims? Both in line with the European guidelines and the 2020-2025 Strategy on the rights of victims of crime.

Victim or perpetrator, people with disabilities are poorly treated and poorly recognised by the justice system. Which does not make any reasonable accommodation, let alone accessible courts.

The situation of Roma people. The government considers that the principle of equality does not allow the adoption of specific measures for an ethnic community. How do you think about this issue in relation to disabled Roma people?

This is the problem with the government, which talks a lot about inclusion but still does not understand the concept. The notion of Intersectionality, as well as the issue of validism, are not recognised at all by the French government and administrations.

Robert Martin:

Can you confirm whether disabled people are still sent to institutions in Belgium and what France is doing about it? Why does France continue a policy of institutionalisation?

France does not like to deal with disabled people. They don't think it's useful to change society. It seems that there are less and less departures to Belgium, but very few returns, and always only

institutional solutions whether in France or in Belgium. France does not know other models. Management organisations don't like to change their habits and it's convenient to have everyone in the same place.

KAYESS:

Uniform definition of discrimination in the laws, on the grounds of disability? Or in the absence of a uniform definition of discrimination against people with "different problems"?

Disability situations are not considered as such, as discrimination. It is a medical and charitable view, which thinks that it is linked to the individual instead of understanding that it is the situations in which individuals are put that constitute disability.

MORRIS

Efforts to bring France in line with the CRPD model of disability?

None. We are going backwards. Just talk.

TORRIJOS

Lack of intervention to support the rights of persons with disabilities. Have DPOs and/or NGOs taken legal action against violations of the rights of persons with disabilities?

It is extremely rare. There have been 4 lawsuits led by ANPIHM on accessibility against the State, 3 times on disability compensation by the same association, there is Mobilité réduite which is going to court for accessibility works that do not comply with the standards, and we at HANDI-SOCIAL had a social landlord condemned for accessibility defects for new housing, and the Regional Council for a non-compliant lift. The managing associations only attack the State when they disagree on the rates of their institutions...

Odile MAURIN,
Présidente d'HANDI-SOCIAL

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