

***Challenging educational opportunities for children with autism in France:
No. 13/2002 International Association Autism-Europe (IAAE) v. France***

The issue

France failed to provide education to people with autism due to the lack of inclusion in mainstream education on the one hand and the dramatic shortage of specialised educational services on the other hand.

When Autism-Europe lodged the complaint, only 10% of children and adults requiring specialized education had a place in a special school. The 90% left did not receive any education.

In addition, only 5% of the children with autism who could have been mainstreamed were individually integrated.

Procedure

In 2002, Autism-Europe submitted a collective complaint to the European Committee of Social Rights on the ground of Articles 15, 17 and E of the European Social Charter, dealing with insufficient educational provision for persons with autism in France. In 2003 the European Committee rendered its decision.

Arguments & Decision

According to Autism-Europe, France failed to satisfactorily apply its obligations under the Revised European Social Charter with regard to the right to education of children and adults with autism. In this respect, Autism-Europe argued that France did not provide sufficient education opportunities, facilities and services of an adequate standard or quality to children and adults with autism. Additionally, Autism-Europe claimed that France discriminated against children and adults with autism because

Violations of the Revised European Social Charter

Article 15—The right of persons with disabilities to independence, social integration and participation in the life of the community.

Article 17—The right of children and young persons to social, legal and economic protection.

Article E—Non-discrimination

Committee’s Application of the Charter to the Facts

“[T]he implementation of the Charter requires the State Parties to take not merely legal action but also practical action to give full effect to the rights recognised in the Charter. When the achievement of one of the rights in question is exceptionally complex and particularly expensive to resolve, a State Party must take measures that allow[] it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources. States Parties must be particularly mindful of the impact that choices will have for groups with heightened vulnerabilities as well as for others [sic] persons affected including, especially their families on whom falls the heaviest burden in the event of institutional shortcomings”

France did not manage to ensure that they enjoyed the right to education in the same way that all other children and adults did. This lack of action by the French government also resulted in discrimination because children and adults with autism did not enjoy the same level of education as other people.

The European Committee of Social Rights concluded that the situation in France constituted a violation of Articles 15§1 and 17§1, and of Article E of the revised European Social Charter because:

- the proportion of children with autism being educated in either general or specialist schools in France is much lower than in the case of other children, whether or not disabled
- there is a chronic shortage of care and support facilities for autistic adults.

Commentary & Analysis

Even though the decision referred specifically to the case of people with autism, its scope goes well beyond this group by reasserting the right to education for all people with disabilities, regardless of the severity of the disability. Whilst people with autism are unfortunately the hardest hit because of the glaring lack of educational services tailored for their needs, they unfortunately are not the only ones to suffer because of France's indigence in this regard.

Autism Europe's complaint is the first collective action to defend the rights of people with disabilities in Europe. Its importance in this respect was highlighted by the Council of Europe. This action culminated in a decision that was adopted in 2003, which was European Year of People with Disabilities. It took its place in the movement to improve the fundamental rights of people with disabilities, especially of those in need of a high level of support, throughout Europe.

The lack of education could also be challenged by the UN Convention on the Rights of people with Disabilities, since States Parties recognize the right of persons with disabilities to education and to effective individualised support.

More information : https://www.coe.int/en/web/turin-european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-13-2002-international-association-autism-europe-iaae-v-france?inheritRedirect=false