



**Violations of rights
and physical and/or
organic disability**

Report 2020 *1st edition*



United for
**our
rights
ecom**



Rights violations and physical and/or organic disability

Report 2020 *1st edition*

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SUMMARY



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President of Ecom

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PRESENTATION

2020 has undoubtedly been a very difficult year for everyone.

The social and health crisis brought by the Covid-19 pandemic created a critical situation highlighting the lack of resources in many areas of our society and showing how fundamental rights are put at risk in exceptional and emergency situations. And even more so for those who are in great vulnerability, such as people with physical and/or organic disabilities.

Coinciding with this pandemic scenario (in which we have been more aware than ever of the rights violations that have been suffered) and with the 50th anniversary of our organization, which we celebrate in 2021, we have prepared our first **RADARECOM, Report of Rights Violations and Physical and/or Organic Disability**.

This report, an initiative that was birthed to be long-lasting and to be repeated annually, **aims to give visibility to right's violations detected by our organization that people with physical and/or organic disabilities have suffered throughout 2020**, and to denounce and promote awareness of the inequality in which we live, despite having recognized the same rights as the rest of people.

Moreover, to prevent future situations of right violations and discrimination on the grounds of disability, and to promote inclusion and equal opportunities for this group, we have included in this report a series of challenges and recommendations to consider.



About us. Disability from a law model. Equality and non-discrimination



1.1 ecom Erasing Barriers. *Creating opportunities.*

About us

ECOM is a movement driven by people with physical and/or organic disabilities who work, through our empowerment and participation, to achieve an inclusive society where we can exercise our rights effectively.

The ECOM brand is formed by the ECOM Federation and the ECOM Foundation.



Currently, the ECOM Federation is made up of more than **120 entities** of people with physical and/or organic disabilities throughout the state.

Mission

ECOM has a twofold mission:

- 1) Defend** the free exercise of the rights of people with physical and/or organic disabilities to achieve full social inclusion and improve their quality of life, with people's empowerment as the cornerstone.
- 2) Strengthen** the physical disability's associative sector through participation, representation, and empowerment.

Vision

To be the reference entity for physical disabilities and the recognized and legitimate representative for the development of policies that favor equal opportunities always with a spirit of innovation, collaboration, and social transformation.

Values

ECOM's mission is rooted in empowerment, inclusion, activism, participation, commitment and innovation values.



To know more about our work you can visit our website: www.ecom.cat



1.2 The conception of disability from a law model

A person's disability is a characteristic, not a defining trait.

Thus, it's understood as an inherent component of society and human diversity; enriching, positive, and evolving, as expressed by the International Convention on the Rights of Persons with Disabilities.

For some time, **the concept of disability has been changing and there's talk now of a model in which the disabled person is conceived as a full member, with obligations, but also with the same rights as the rest of people;** and where non-discrimination and equal opportunities must be guaranteed, through the development of policies that adapt to the person and not the other way around.

People with disabilities need to be actively involved in the community. The most important aspect is our freedom to choose and this ability must be strengthened, **providing us with the tools we need to have a life of equal opportunities, like the rest of the people.**

With this paradigm shift, we've gone, therefore, from being recipients of services to be responsible for our lives. We have the right to make our own decisions, to make mistakes, and not to be conceived solely as patients or beneficiaries of decisions made by other people or services.

The concept of disability has been changing and there's talk now of a model in which the disabled person is conceived as a full member, with obligations, but also with the same rights as the rest of people; and where non-discrimination and equal opportunities must be guaranteed, through the development of policies that adapt to the person and not the other way around.



1.3 The principle of equality and the right to non-discrimination

Article 7 of the Universal Declaration of Human Rights (adopted and affirmed by the United Nations General Assembly on December 10, 1948) recognizes that everyone is equal before the law and has the right to the same protection against any discrimination that violates this statement.

According to the International Convention on the Rights of Persons with Disabilities, discrimination means, “any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or other spheres”.

Equality and non-discrimination are two of the general principles governing the Convention. **Only if there is no discrimination can equality be effective.** Therefore, they are two interrelated concepts.

The UN Convention on the Rights of Persons with Disabilities was adopted on 3 December 2006 and entered into force in Spain in May 2008. **The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote respect for their inherent dignity.**

Equality and non-discrimination are two of the general principles governing the Convention. Only if there is no discrimination can equality be effective.



① Main regulatory framework:

The most relevant regulations that include the principles of equality and non-discrimination must be taken into account.

● International scope:

- United Nations Universal Declaration of Human Rights (Articles 1 and 7).
- International Covenant on Civil and Political Rights (Articles 2.1, 14 and 26).
- International Covenant on Economic, Social and Cultural Rights (Article 2.2).



● Legislation relating to the field of disability:

- International Convention on the Rights of Persons with Disabilities.

● European scope:

- Treaty on European Union (Article 9).
- Charter of Fundamental Rights of the European Union (Articles 20 and 21).
- Convention for the Protection of Human Rights and Fundamental Freedoms, ECHR, Council of Europe (Article 14).
- European Charter for Safeguarding Human Rights in the City (Article 2).

● National scope:

- Spanish Constitution (articles 1.1, 9.2 and 14).
- Workers' Statute (articles 4, 17, 24 and 28).
- Organic Law 3/2007, of March 22, for the Effective Equality of Women and Men (articles 3, 4 and 5).



● Legislation relating to the field of disability:

- Royal Legislative Decree 1/2013 of 29 November, approving the Revised Text of the General Law on the Rights of Persons with Disabilities and their Social Inclusion.
- Law 39/2006 of 14 December, on the Promotion of Personal Autonomy and Care for Dependent People.
- Organic Law 1/2017 of 13 December, amending Organic Law 5/1995, of 22 May, of the Jury Court, to guarantee the participation of people with disabilities without exclusions.
- Organic Law 2/2018 of 5 December, amending Organic Law 5/1985, of 19 June, on the General Electoral Regime to guarantee the right to vote for all people with disabilities.



2.1 The need to make rights violations visible

When do we face a violation of rights?

Rights are rights only if they are effective, that is, if they can be exercised. When a law or regulation recognizing a right is violated, a violation of rights occurs.

Although in our legal system some laws and regulations promote, protect and defend the full enjoyment -and on equal terms- of all human rights and freedoms of people with disabilities, experience shows us that often these laws are not made effective. Therefore, it's like they don't exist. The rights of people with disabilities, as a result, are constantly violated.

Enquiries attended in 2020:

We received a total of **508 rights enquiries** during 2020. Of these, **121 enquiries** referred to rights violations.



Purposes of the report:

- VISIBILITY
- AWARENESS
- PREVENTION

Report Methodology:

Period analyzed: from January 2020 to December 2020

Territorial area analyzed: Catalonia

Reference framework: UN Convention on the Rights of Persons with Disabilities

The report has analyzed the **violations produced in relation to the following rights:**

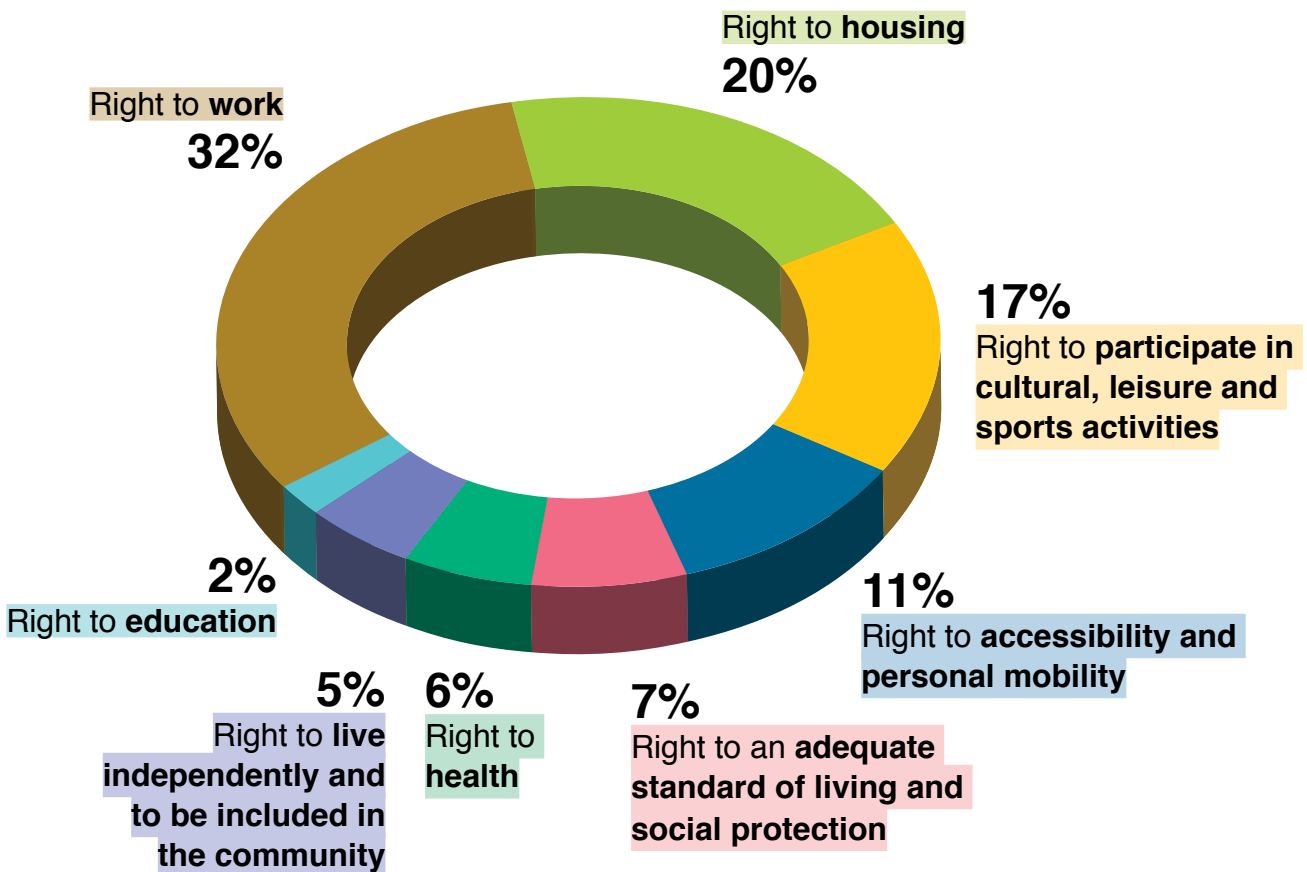
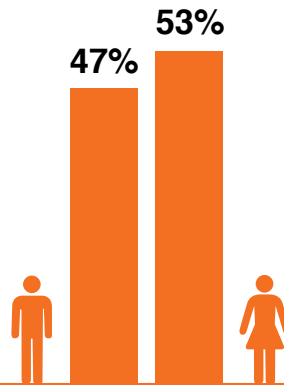
- Right to accessibility and personal mobility
- Right to life
- Right to live independently and to be included in the community
- Right to housing
- Right to education
- Right to health
- Right to work
- Right to an adequate standard of living and social protection
- Right to participate in cultural, leisure and sports activities

Areas of enquiries addressed in matters of violations:

508
Enquiries
attended

121
Enquiries
referred to rights
violations

Who has suffered
the violations?





The problem of underreporting violations:

Despite the enquiries received, it is clear that **underreporting remains an issue making the vulnerabilities suffered by people with physical and/or organic disabilities less visible.**

Failure to report situations of discrimination and rights violations is an obstacle to the identification of all people with disabilities who do not have their rights recognized. Some of the causes creating this infraction -gathered in different workgroups and/or monographic meetings that we carried out- are: ignorance of one's rights and how to report a violation, perception of discrimination as a daily and normalized experience, lack of confidence in the system and the results of reporting it, the possible economic cost of reporting it, fear of the consequences of making a violation visible, and lack of accessibility in the procedures and resources when reporting a violation.

In regards to Covid-19, we find two factors that may have also reduced the number of enquiries received: the self-confinement of many people for fear of infection and the pandemic restrictions have led to limit mobility, meetings and participation in different areas, with the consequent decrease in exposure to possible situations where a violation could have occurred in other circumstances.

Therefore, we consider that it is **necessary to continue working to inform, guide, and accompany people with physical and/or organic disabilities on the legislative recognition of their rights and to let them know about the different channels to denounce possible situations of discrimination and violation of rights**, to reduce underreporting and make even more visible the situations of violations suffered by people with disabilities in their daily lives.

Next, we analyze the violations that have occurred concerning the following rights:

Failure to report situations of discrimination and rights violations is an obstacle to the identification of all people with disabilities who do not have their rights recognized.



2.2 Violation of the right to accessibility and personal mobility

“ Personal experience:

"Due to my disability, finding barriers while walking down the street makes me feel insecure and afraid of falling down.

The lack of accessibility (in streets, buildings, transport...) is a barrier that makes it difficult for us to have an independent life and on equal terms with the rest of our neighbors."

”

A⁺

Failure to keep people with disabilities in mind, when making decisions during the pandemic, has been a step backward in terms of personal mobility and accessibility in public spaces, especially in terms of reducing public transport and the tactical urbanism implemented.

Detected violations:

- **The participation of people with physical and/or organic disabilities, and of the entities that represent them, in the policies and strategies -both in the de-escalation phase and of the in social and economic reconstruction-** has not always been guaranteed, to ensure that the International Convention on the Rights of Persons with Disabilities was taken into account.
- Failure to keep people with disabilities in mind, when making decisions during the pandemic, has also **been a step backward in terms of personal mobility and accessibility in public spaces, especially in terms of reducing public transport and the tactical urbanism implemented**, without taking into account the real needs of people with physical and/or organic disabilities.
- At the beginning of the pandemic, **no accessible communication systems were considered (neither in official communications nor in telephone services or mobile applications for care and assistance)**, thus leaving a part of the population excluded, without access to the basic hygiene, health, and protection guidelines that were being offered to people.
- Another consequence of the Covid-19 pandemic has been a sudden increase in dependence on digital tools. But **the digital world is not always accessible, affordable, or considering human diversity, so this situation has also fully affected people with disabilities**. The digital divide mainly affects usability and accessibility (commonly used ITC devices do not adapt to the needs of people with disabilities and there are computer or smartphone functionalities that cannot be accessed because the device is not adapted to the need).

Future Challenges:

To approve the Accessibility Decree in Catalonia -which will have to be displayed in the Accessibility Act of 2014-, and to provide it with a sufficient and necessary budget to guarantee the right to accessibility of people with physical and/or organic disabilities, and provide for the creation of a stable and structural economic fund for universally accessible policies.

Ensure that people with physical and/or organic disabilities are not excluded from the digital transformation that our society is experiencing in all areas, ensuring that all digital platforms are accessible, affordable and that they contemplate human diversity, and guaranteeing internet access as a fundamental right for all people, on equal terms.





2.3 Violation of the right of life

Detected violations:

One of the most serious situations experienced in 2020 was to see the right to life questioned **when in the worst moments of the pandemic and with a saturated health system, it was made public that certain medical protocols contemplated the possibility of not allocating resources to certain groups, based on a less useful premise of life, in which disability could become a choosing factor.**

Although it was later denied by the administration, for a few weeks this situation caused great anxiety among people with disabilities and their families, as they questioned their right to receive equitable and non-discriminatory health care for disability reasons.

Future Challenges:

Guarantee equitable health care and prevent discrimination on disability grounds, with accredited official criteria, which must be directed by the protection of the human right to life without exception.

In order not to repeat the situation presented at the beginning of the pandemic when some medical protocols suggested the possibility of not allocating resources to certain groups.



2.4 Violation of the right to live independently and to be included in the community

“ Personal experience:

"I am 46 years old and I have quadriplegia due to an accident I had 11 years ago.

I am currently living in a residence. I need to get out of this institutionalized regime.

I have everything ready and my hopes set in an independent life, but I only see my life passing away and I feel totally helpless to find myself in this situation and not being able to lead a normal life within my capabilities. It is an unsustainable and unfair situation."



In residential centers, protocols with different social protection treatments have been applied much more restrictive than for the rest of the population.

”



Detected violations:

- **The pandemic has shown that residences have been the most affected places by COVID-19 infections, and where people using these spaces have not seen their rights recognized as the rest of the people.** Protocols with different social protection treatments have been applied to these centers, being more restrictive than for the rest of the population (unable to work during the state of alarm, unable to leave —or only for a limited time— when there was no longer any home confinement, unable to use sports facilities, unable to enjoy the same mobility rules as the rest of the population during the Christmas festivities...).
- In this sense, a balance had to be sought so that these protocols were aligned with a care model centered on the person and that the right to personal autonomy would be guaranteed by avoiding isolation and encouraging participation in the community.

Future Challenges:

Review the care models for people with physical and/or organic disabilities, prioritizing residential services, to promote a true community care model focused on the person, with sufficient and effective support, which will allow you to choose how and where you want to live, as promoted by the International Convention on the Rights of Persons with Disabilities.

Strongly support the promotion of personal assistance and other aid, as well as home assistance, because in this pandemic it has been found that personal assistance is the best service to ensure the safety of people.

Accelerate the approval of the Decree that must regulate personal assistance in Catalonia, so that it can guarantee the right to independent living of people with physical and/or organic disabilities.



2.5 Violation of the right to housing

“ Personal experience:

"I wanted to rent a place on the ground floor to live in. The owner accepted all the conditions, but a few days before signing the contract he asked me if I agreed with the pre-contract insisting that 'I could not hammer any nails into the walls'.

At the time I reported that due to my reduced mobility I would have to install a support bar in the toilet. One day before handing over the keys, they informed me that the owner was backing down and they refused to give me any reasons.

The house is still not rented, which shows me that the refusal was due to my reduced mobility and the need to install support measures"



There's been an increase of people with physical and/or organic disabilities at risk of residential exclusion or with imminent risk of losing their home and with no housing alternative.



Detected violations:

- **There's been an increase of people at risk of residential exclusion or with imminent risk of losing their home and with no housing alternative** (20% of enquiries received in 2020 at ECOM have been about housing).
- Likewise, 71% of the enquiries -also about housing- referred to situations where the property owners and the community acted as discriminatory agents. **There's been discrimination by the property owners after finding out that the tenant was a person with a disability (that had to do accessibility works, and so they assumed that he would not be able to pay the rent...).** Moreover, the accessibility chain has been broken mainly in the community spaces of the residential buildings as the community has not allowed any renovations to improve accessibility.

Future Challenges:

To approve a National Housing Plan in Catalonia, agreed by different social agents, which will make progress in guaranteeing the right to housing for people with physical and/or organic disabilities, increasing financial aid and subsidies for the removal of architectural barriers, and access to support products and home automation as fundamental tools for promoting personal autonomy.



2.6 Violation of the right to education

“ Personal experience:

"I'm a disabled child's mother. During the confinement, due to the pandemic, the specific curricular material for students with special educational needs was not taken into account. For example, the contact that teachers kept with the students did not take into account all the educational needs, nor was all material accessible and adapted for these students from the beginning."

”

Detected violations:

● **At the time of the state of alarm, the specific curricular needs of students with special educational needs were not taken into account**, and despite the Department of Education's prioritization on keeping the teachers in contact with students, it did not guarantee an effective communication with all students and it did not take into account all their needs.

For example, proof of this was that the material sent during the confinement was not always accessible or adapted to the needs of these students, who had trouble in continuing their education from home.

Future Challenges:

Make effective the implementation and complete development in Catalonia-Spain of Decree 150/2017, of 17 October, on educational care for students within an inclusive education system framework, increasing the budget for its development and getting involved all educational community agents as well as people with disabilities' organizations, so that in cases of exceptionality, as the one lived recently, the continuity of education with equal opportunities for all students is guaranteed.





2.7 Violation of the right to health

“ Personal experience:

"I'm the president of a physical and organic disabilities entity.

During the pandemic, at the height of the health system's collapse, we found ourselves overloaded with work and had to make a great effort to care and support everyone who asked us for help, as I did not have access to their medical centres that were overwhelmed by the situation we were living in. In this sense, entities have played a very important role in supporting and transmitting information to people linked to our organisations."

”



During the state of alarm, the real circumstances of people with disabilities were not made visible or taken into account.

Detected violations:

- The health and social crisis created by Covid-19 has clearly shown, **that in critical situations, fundamental rights are put at risk, and even more so for those people with physical and/or organic disabilities, who are in a state of greater vulnerability.**
- During the state of alarm, the real circumstances of people with disabilities were not made visible or taken into account: **people who were at higher risk of infection because they often had other associated health problems; people who in many cases could not keep a safe distance because they sometimes needed personal support to carry out their daily living activities; people who, in many cases, were already vulnerable before the pandemic.**
- **In addition, rehabilitation and physiotherapy services** were suspended without taking into account that these treatments were essential for maintaining and controlling the development of people's disabilities.
- **Also, they did not provide sufficient protective equipment -neither to people with disabilities, nor to their relatives, nor to the professionals who worked directly with them-** to ensure that direct care (professional or not) was carried out in optimal safety conditions.

Future Challenges:

Increase the investment in health services in order to repair the damages manifested by the pandemic and ensure that people with physical and/or organic disabilities receive all the needed treatments and services.

Make definitive progress in the construction of an integrated social assistance and healthcare model in Catalonia, so that all the progress that has already been done in recent years can be specified and a model of social and healthcare is definitively implemented, as the pandemic has shown that the crisis suffered by the population has not only been health-related but has also impacted the social needs of citizens.





2.8 Violation of the right to work

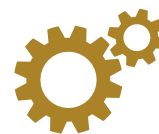
“ Personal experience:

"Last year I had a one-year contract, with a good chance of getting an indefinite one.

As a result of the pandemic I was fired; the company argued that work had dropped drastically and he could not support all the workers.

This situation, together with the impossibility of finding a home that would fit my financial needs, caused me to move to another autonomous community."

”



54.60% of those who responded to the ECOM survey on the impact of Covid-19 on people linked to the employment inclusion services (in which a total of 1,721 people participated), and who worked before the state of alarm, have seen their employment situation worsened.

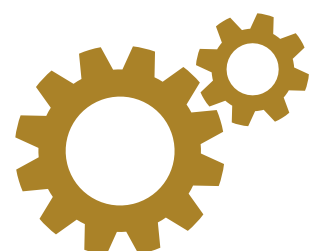
Detected violations:

- The employment situation has caused a great deal of unrest to people with disabilities, who start from a less favorable position than the rest of the people. Due to the destruction of jobs, a worsening of the employment situation of people with disabilities was identified—especially for women.
- **54.60% of those who responded to the ECOM survey on the impact of Covid-19 on people linked to the employment inclusion services (in which a total of 1,721 people participated), and who worked before the state of alarm, have seen their employment situation worsened**, either because they reduced their working hours (and therefore their wages), or they were affected by ERTO or ERO, or because they didn't have their contracts renewed.
- On the other hand, **only 56.5% of those surveyed had a laptop or desktop computer and only 10.6% had a tablet**, which made it difficult to continue training, teleworking, or looking for work.

Future Challenges:

Improve training programs and support for the employment of people with physical and/or organic disabilities, to create quality jobs and ensure their maintenance with adequate and sufficient funding.

Ensure that people with physical and/or organic disabilities have access to technological assets -improving training in new technologies- to continue their training or teleworking and thus minimize the digital divide's impact on them, because by neglecting the digital sector in the employment regulation, the physical barriers that we find in real workplaces could be reproduced.





2.9 Violation of the right to an adequate living standard and social protection

“ Personal experience:

"I've been on the waiting lists of officially protected apartments for three years.

And I'm wondering: where are the social policies in these cases?

How is it possible that a person with a disability, with a non-contributory pension of €600, is only allowed a collaborative turnover of up to €2,500 per year?

Besides, no one hires me (even though I have a higher education), so that I can quit this pension since many employers do not even stop to consider the abilities behind each disability."

”



People with disabilities have an unfair economic disadvantage of 17,700 and 41,200 euros per year on average.

The rate of risk of poverty or social exclusion of people with disabilities is 31.5%.

Detected violations:

- **The pandemic has increased the social needs of the general population, giving visibility to the deficiency that the social protection system already suffered**, a reality that has also impacted people with physical and/or organic disabilities.
- **And it should be remembered that people with disabilities have an unfair economic disadvantage of 17,700 and 41,200 euros per year on average**, to acquire similar living standards to the rest of the population without disabilities (according to a study by the City of Barcelona). **And that people with disabilities had a risk of poverty or social exclusion rate of 31.5% (according to data from the latest EAPN poverty status report).**
- **87% of people who answered to the ECOM's survey on how the state of alarm was affecting them (in which a total of 212 people participated)**, stated that they considered that the protocols developed by the government had been designed with a majority profile, leaving a large part of the population excluded, many of them feeling undervalued and noticing the government's failure on giving priority to disabilities.

Future Challenges:

Conceive social policies from a diversity perspective and an intersectional viewpoint, incorporating disability in a transversal way into general policies

and taking into account that in policies specifically aimed at people with disabilities, multiple social identities (gender, ethnicity, age, nationality...) that overlap each individual are also considered, to understand and analyze the social inequality they suffer from a multidimensional perspective.

Ensure the participation of persons with physical and/or organic disabilities, and of the entities that represent them, in the construction and implementation of public policies

and strategies to ensure that the International Convention on the Rights of Persons with Disabilities is taken into account and that their specific needs are also considered.





2.10 Violation of the right to participation in cultural, leisure and sports activities

“ Personal experience:

"I am 49 years old and I live in a residence. At the time of the de-escalation -and when some sports centers started to reopen- I couldn't do it because in my residence we were only allowed to go out for an hour every day and not to sports centers whatsoever (I understand that they feared we would get infected).

Therefore, since March 2020 I can't play sports, as I did before.

This has had a very negative impact on both my physical and emotional health."



The lack of foresight has resulted in a scarcity of resources (absence of recreational monitoring, affected by ERTO; shortage of specialized PPEs to carry out aquatic activities, etc.), which has made it difficult for people with disabilities to participate on equal terms and with all security measures.

”

Detected violations:

- Due to the pandemic, **many cultural, leisure and sports activities were suspended. However, at the time of the de-escalation, when some of these activities could be resumed, in some cases security measures were implemented to the detriment of the needs of people with disabilities** (not to mention, for example, the appropriate accessibility measures).
- In this regard, although the health crisis has prioritized the right to health, it has not been carefully considered that cultural, recreational, leisure and sports activities have a direct impact on people's health at a physical, emotional, and psychological level.
- **This lack of foresight has resulted in a scarcity of resources (absence of recreational monitoring, affected by ERT0; shortage of specialized PPEs to carry out aquatic activities, etc.), which has made it difficult for people with disabilities to participate on equal terms and with all security measures.**

Future Challenges:

Create public awareness and knowledge transmission about the rights of people with physical and/or organic disabilities to prevent discrimination on disability grounds and put more attention to diversity by training all agents involved in the planning and implementation of cultural, sports, leisure, tourist, and other direct care activities.





Rights violations and physical and/or organic disability

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 **Ajuntament de
Barcelona**