

SUMMARY REVIEW

**OF RESPONSES TO ADDITIONAL QUESTIONS OF THE
CRPD RELATED TO THE INITIAL REPORT OF THE
REPUBLIC OF SERBIA ON THE IMPLEMENTATION OF
THE CONVENTION ON THE RIGHTS OF PWD**

SUBMITTED BY:

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SERBIA (NOOIS)**

and

**CENTER FOR INDEPENDENT LIVING OF PWDs SERBIA (CIL
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I EXECUTIVE SUMMARY

Summary review of responses to additional questions of the CRPD related to the Initial report of the Republic of Serbia on the implementation of the Convention on the rights of PWD is submitted by National organization of persons with disabilities of Serbia (NOOIS) and Center for independent living of PWDs Serbia (CIL Serbia).

In September 2015 this coalition has presented to the UN Committee the Alternative Report on the implementation of the Convention on the Rights of Persons with Disabilities in the Republic of Serbia.

In this additional document, we are giving our comments to the following articles of the UN Convention, on the basis of the replies that the Republic of Serbia submitted to Committee's questions: article 6 - women with disabilities, article 9 – accessibility, article 19 - living independently and being included in the community and article 27 - work and employment.

We chose these four articles, because we consider them as a key precondition for inclusion in community for persons with all categories of disabilities in Serbia. Additionally, women with disabilities are multi discriminated, so their position in the society requires special efforts by the state in order to protect them from discrimination. In connection with this question, we are proposing to Committee some recommendations with kind request to address them in Committee's communication with the state delegation, in order to improve the situation in these areas.

National organization of persons with disabilities of Serbia is the “umbrella organization”, ie. Union of organizations of the persons with particular types of disabilities, the organizations of legal advocates of persons with disabilities and the interest organizations gathering persons with different types of disabilities organized for the territory of the Republic of Serbia. It was established in 2007 and represents the united movement of persons with disabilities of Serbia, speaking on behalf of majority of PWD (about 800.000 PWDs and legal advocates of persons with disabilities), implying the most important political strength in advocating for their common interests and needs. Mission of NOOIS is to increase inclusion of PWD in society, full respect of their human rights and prevent discrimination based on disability. Through partnership between the unique disability movement and the Republic authorities it influence legal framework for PWD both, by proposing specific disability laws and other general laws and other documents, in the compliance with the UNCRPD and international standards and documents.

Center for independent living of PWDs Serbia (CIL Serbia) is a cross-disability organization of PWD. It was established in 1996 and the mission of the Center is to promote the philosophy of independent living and its mainstreaming in Serbia. In its work organization is advocating for the achievements of independent living of PWD, their human rights and social inclusion. It has a network of local organizations in 10 municipalities in Serbia. It's work also include policy and legislation development, researches on disability issues, education and disability awareness raising, lobbying and campaigning for creation of conditions for full participation of PWD in social and political life. It has been involved in designing of number of policy document, including National Disability Strategy, Law on Prevention of Discrimination of PWD and many other relevant laws.

II ISSUES RELEVANT FOR COMMITTEE'S QUESTIONS:

ARTICLE 6: WOMEN WITH DISABILITIES

In Serbia state is still not systematically enough dealt with issues of the full and equal enjoyment of all human rights and fundamental freedoms of women and girls with disabilities nor defined the measures for the empowerment of women with disabilities to enable them to be equal in society. Women with disabilities are not particularly mentioned in any law of RS as a group exposed to multiple marginalization; there are no official data on their status and needs. Even though they are mentioned in some strategies, nothing has been done in terms of the implementation of these provisions yet.¹

In the Responses to additional questions of the Committee, submitted by Republic of Serbia focus is only to the criminal act of sexual intercourse with defenseless person. However it is not recognized that the Criminal Law of Serbia is discriminating women with disabilities in the state's response to violence. For the criminal act "rape" in the Criminal Law of Serbia² (Article 178), the prescribed punishment is 3 to 12 years in prison, but it is not applied when the victims are women with disabilities. Instead of qualifying as the criminal act, "rape" against women with disabilities is defined as a "sexual intercourse with defenseless person", for which the prescribed punishment is 2 to 10 years of prison (Article 179).

It is not clear how the rape of woman with mental illness, other mental disorders, different types of physical disabilities, blind or deaf, who is less capable for the resistance than woman without disability, could be treated as less criminal offence than if it is committed against woman without disability, as rape is always rape, regardless of whether the victim has disability or not. Logically rape of woman with disabilities should be considered as a more severe act and have more rigorous punishment.

The measure of "evicting a violator from an apartment" in the Family Law of RS³ is not applicable to women with disabilities because they are dependent on the violator in everyday life activities (getting up, dressing, going to toilet...). In the Republic of Serbia, there is still no support service for women with disabilities to satisfy these needs. They cannot shelter wherever and the existing shelters and safe houses in most cases are inaccessible. Institutions they ask protection from are inaccessible and they are not a priority for realizing social benefits.

¹ National Strategy for Improving the Position of Persons with Disabilities - National Strategy for Improving the Position of Women and Promotion of Gender Equality ("Official Gazette of RS", No. 55/05, 71/05, 101/07 and 65/08)

² "Official Gazette of RS" No. 85/2005, 88/2005 - amended, 107/2005 - amended, 72/2009, 111/2009, 121/2012, 104/2013 and 108/2014

³ "Official Gazette RS" No. 18/2005

ARTICLE 9: ACCESSIBILITY

In the Responses to additional questions of the Committee, submitted by Republic of Serbia, with a focus in the following areas: informing for PWD's, accessibility of public areas and accessibility for blind and deaf persons, are given accurate information, but it does not mention problem in their implementation. i.e. there is not enough information about weaknesses in practice.

The biggest problem in Serbia is the implementation of the existing good regulations – laws and by-laws.

In spite of all regulations, PWD's in Serbia face obstacles to:

- **moving** (there is the lack of tactile paths, the lack of audible traffic-lights, high sidewalks...)
- **using transportation** (inaccessible public transport, the lack of parking places marked for PWD's and complicate procedure for obtaining necessary stickers...)
- **entering and moving through private and public buildings** (The Law on Spatial Planning and Construction prescribes that residential buildings with ten or more apartments must fulfill accessibility conditions, but PWD's are forced to find their own sources of financing for adaptation)
- **using home appliances,**
- **electronic and digital systems,**
- **information and communication,**
- **services and products in every-day activities.**

In March 2015 the Law on Sign Language was adopted and from that time, sign language becomes an official language for deaf people. Regarding the electronic media, both radio and television are inaccessible to persons with impaired hearing and hard-of-hearing persons - there is still the insufficient number of TV programs for deaf persons in Sign language. The process of digitalization of the media should be beneficial to deaf persons (it's possible that for a lot of information to appear on a radio display). Sign language is also poorly distributed due to a small number of interpreters. One sign language interpreter works for approximately 1.000 deaf persons while 30.000 of them need an interpreter. There are 44 offices for translation services and about 300 interpreters in sign language with different level of specialization.

The Guide Dog Assistance Law which was adopted in March last year, but it is necessary to work on the promotion of law and sensitize the public on the use of guide dogs

Generally, although there are adopted standards on accessibility and sufficiently sanctions, they are not always applied due to the insufficient inspection supervision. Also, still there is not adequate training on “accessibility standards” to architect professional groups and local boards which provide approval for Construction and Use Permit.

ARTICLE 19: LIVING INDEPENDENTLY AND BEING INCLUDED IN THE COMMUNITY

In the Responses to additional questions of the Committee, submitted by Republic of Serbia services of support for independent living are mentioned such as personal assistance service. It is stated that the majority of beneficiaries (40%), using personal assistance service were children and young persons. This is not in accordance with Guidebook on Minimal Standards of Services (Articles 99 and 100) which prescribe that this service is available to adults with disabilities with an estimated I or II level of support, which are entitled to a larger allowance for care and assistance, have the capacity for autonomous decision-making, are employed or actively involved in the work of various citizens' associations, sports associations, political parties and other forms of social engagement.

Even though the PA service, is a necessary precondition for independent living of PWDs, enabling them to be socially and politically active and being included in the advocacy processes in influencing and creating disability policy (according to the article 4 UNCRPD), and participating in political and social life both at the national level and the level of the local communities, the PA service is not developed enough due to different reasons:

- PA service is financed by the local communities most of which have insufficient financial means.
- Insufficient knowledge of the standards for the quality of service, contents and principles on the basis of which the service is provided⁴. As a result, there are great differences in contents and quality of the PA service⁵ which beneficiaries acquire even where it has been apparently provided.
- The lack of the service needs assessment system in CSW and the practice that they do not register the beneficiaries' needs for services that do not exist currently in the local community but only assess needs for existing ones, that are of limited spectrum.
- According to data provided in State response to additional questions, in 2014 only for 46 adults used PA service in Serbia through the assessment of CSW. According to the data of Center for Independent living Serbia, 83 adults used standardize PA service provided by local organizations of PWD through projects funded by local government in 8 cities of Serbia, without assessment provided by CSWs.
- The lack of planned approach to financing services and setting priorities in the community
- Not making differences between PA service and services aimed for the children with disabilities, such as personal escort for the children or other services aimed to the children and persons with intellectual disabilities.

The plurality of service providers has not been realized in Serbia yet which, among other things, influence a relatively small number of services at the local level.

According to Law on SP, Centers for Social Work have also a right to provide services when these services do not exist in the community which leads to a conflict of interest: because SWCs refer beneficiaries to services they provide but not for the new services that are just developing or service providers are the local CSOs . These data are also supported by the

⁴ Defined by the Guidebook on Minimal Standards of Services?, "Official Gazette of RS", No. 42/2013

⁵ The Research of CILPWD Serbia 2013 and "Holistic Report: Monitor your Rights!", COD

results of the research ⁶ according to which 72% of interviewees do not have access to a needed service support, 42% of interviewees do not have a possibility to influence decision making and a choice, quality and scope of a service they will obtain.

ARTICLE 27: WORK AND EMPLOYMENT

In the Responses to additional questions of the Committee, submitted by Republic of Serbia in relation to Article 27, implementation is presented in connection with the following areas:

- statistics regarding the active employment policy measures
- obligation of the employer to provide another appropriate job to an employee with health condition and an employee with disabilities who is not able to work
- the definition a person with disabilities within the Law on professional rehabilitation and employment of PWD's and the assessment of work ability.

Statistics regarding the active employment policy measures shows reduction in the number of unemployed persons with disabilities, but that still does not mean equal opportunities in employment.

But, speaking about The Law on Amendments to the Labour Law which entered into force on 29 July 2014, opinion of the state and the disability movement is completely different. Amendments to the Labour Law **worsen situation** as if an employer cannot provide an adequate job in accordance with the remaining working capacity for an employee, the employee shall be considered redundant and the employer can terminate the employment contract. NOOIS submitted the request to the Constitutional Court of Serbia for the assessment of constitutionality of this provision. This provision represents a direct violation of Article 27 of the Convention.

In this field exists many more challenges:

- prejudice, stereotypes and generally discrimination of PWDs as workers
- the unfavorable educational structure
- violation of principles of participation, inclusion
- accessibility
- discrimination reflected through relations with colleagues and lack of understanding by employers
- employment mostly of PWDs who do not need or need minimal support in the workplace
- PWDs with a greater level of a physical impairment and greater need of support are still unemployed

Regarding the question of the assessment of work ability, **the assessment PWD can be ranged in one of 3 levels:**

- Ability to work under general conditions, without adjusting jobs, workplace or job and workplace.

⁶ Holistic Report: Monitor your Rights!", Center for Society Orientation - Disability Rights Promotion International Regional Center for Monitoring the Rights of Persons with Disabilities for Europe (2013)

- Ability to work under special conditions with adjusted job vacancy or job and workplace.
- No working capacities to work neither under general conditions or special conditions. Those PWD could be only engaged in Working Centers as part of their rehabilitation process.

Although the assessment of working capacity should includes medical, social and other criteria, the medical model and the assessment of "incapacity" based primarily on medical documentation are still dominant.

III RECOMMENDATIONS

In order to eliminate these problems in practice, we give the following recommendations.

Article - 6:

1. The State should amend criminal legislation in the part relating to domestic violence and sexual violence against women with disabilities and punish a offender in proportion to the criminal act he committed, i.e. prescribe more severe punishment for the rape of women with disabilities.

Article - 9:

1. The current legislative framework does not represent a barrier in realizing accessibility for PWD's in Serbia. But, it is necessary to work more actively on the systematical law implementation, punishing violators, raising awareness of the employed in the public sector but also of all citizens of the rights of PWDs to full and free access to facilities, information, institutions and services in society.
2. It is necessary for town and municipal authorities to include activities in their local plans and budget for ensure providing accessible transportation, information and communications.
3. It is necessary for competent ministries to empower control mechanisms and inspection of implementation of regulations and by-laws and process cases where legal provisions were not respected.

Article - 19:

1. As the State is process of making changes in the Law for Social Protection it should make sure that the representatives from organizations of PWD are included in that process according to the Article 4. of CRPD and make sure that achieved level of rights will not be jeopardized
2. The State should make plans and create measures to build capacities of local self-authorities and CSWs for assessment, provision, monitoring and evaluation of personal assistance service

Article - 27:

1. State should change Labor Law from 2014, and return the rights of persons with disabilities whose disabilities are a consequence of an injury at work at the level of Labor Law 2009
2. The procedure for the assessment of working capacity should be improved and refocus more on the assessment of the necessary support and adjustment for a disabled person that is required in order to perform a particular job.