



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

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**Consideration of reports submitted by parties
to the Convention under article 35**

Concluding observations on the initial report of Bosnia and Herzegovina

Addendum

Information received from Bosnia and Herzegovina on follow-up to the concluding observations*

[Date received: 19 February 2019]

* The present document is being issued without formal editing.

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An answer of Bosnia and Herzegovina on follow-up of recommendations 11 and 29 given by the Committee on the Rights of Persons with Disabilities in the Concluding observations on the initial report of Bosnia and Herzegovina

1. On 12 April 2017, the Committee on the Rights of Persons with Disabilities published “Concluding Observations on the Initial Report of Bosnia and Herzegovina”, which included recommendations for Bosnia and Herzegovina. After translation of this document, in September 2017, it was transmitted to all relevant institutions at all levels of government in Bosnia and Herzegovina, including the governments of the Federation of BiH, the Republika Srpska and Brčko District for follow-up.

2. The following answers are summarized so that they update, without any repeating, the information provided in the Report on the Implementation of the Convention on the Rights of Persons with Disabilities in Bosnia and Herzegovina and the Answers to the February 2017 Additional List of Issues.

Ref. para. 11. (a)

The Committee recommends that the State Party:

(a) Review its legislation to incorporate a definition of disability-based discrimination that clearly include all forms of discrimination on grounds of disability, including multiple and intersectional discrimination, and allocate financial resources for its effective implementation;

3. The Ministry of Human Rights and Refugees of BiH, as an institution responsible for collecting information on the implementation of the Convention on the Rights of Persons with Disabilities in Bosnia and Herzegovina, addressed the Delegation of the European Union to BiH with an initiative to map needs of persons with disabilities in Bosnia and Herzegovina, with a special emphasis on follow-up of the recommendation of the Committee for the Rights of Persons with Disabilities about legislation review. The idea is that this review should involve representatives of all governments in BiH and representatives of all institutions relevant to the implementation of the Convention. It is planned to develop a uniform methodology for harmonisation of legislation in BiH. The methodology is planned to be a practical tool containing the interpretation of each article of the Convention individually, as well as clear guidelines and instructions on how to harmonise national laws and regulations with individual provisions of the Convention.

4. The Strategy for the Promotion of the Rights and the Position of Persons with Disabilities in the Federation of Bosnia and Herzegovina (2016–2021) envisages a review of the compliance of laws and regulations with the UN Convention on the Rights of Persons with Disabilities, which will be done by all departments responsible for implementing this strategy, which are, at the same time, all departments in the FBiH Government in charge of and responsible for the Convention implementation. The legislation review has not been done yet. This Strategy has literally copied the definition of a person with disabilities as stated in the UN Convention on the Rights of Persons with Disabilities and, in this segment, it is in line with the Convention.

5. Also the 2017–2026 Strategy for Improving the Social Position of Persons with Disabilities in the Republika Srpska aims at improving the position of persons with disabilities by amending and harmonising delegated legislation in the field of disability, as well as the elimination of all discriminatory provisions. The Strategy envisages the passage of the Law on the Prohibition of Discrimination of Persons with Disabilities of the Republika Srpska and the Ministry of Justice of the Republika Srpska is responsible for its drafting.

6. The Brčko District of BiH still does not have a Strategic Document for Persons with Disabilities.

7. In addition to the Law on the Prohibition of Discrimination, which is applicable in the entire country, all laws in the Federation of BiH, the Republika Srpska and Brčko

District of BiH in the field of employment, health care, social protection and education contain general provisions for the prohibition of discrimination, including disability- or physical impairment-based discrimination. All of these laws were listed earlier in the BiH Report on the Implementation of the Convention and in the answer to the additional list of issues from the Committee on the Rights of Persons with Disabilities.

8. An update is that a new Labour Law is being drafted in the Brčko District of BiH, which will be harmonised with the EU Directives concerning work and labour relations.¹ The Law will more specifically provide for the protection of employed persons with disabilities from dismissals and definitions of “reasonable accommodation” and “universal design” are introduced in accordance with the Convention on the Rights of Persons with Disabilities. The aim of this Law is to ensure that disability cannot be a reason why employers will not hire a person with a disability although he/she has qualifications relevant for the job and can perform work efficiently if provided with reasonable accommodation.

9. In the Law on Amendments to the FBiH Criminal Code,² the FBiH Ministry of Justice has introduced a definition of hate crime, giving special protection to persons with disabilities, and, if this criminal offense is committed on the basis of disability, it is taken as an aggravating circumstance.

Ref. para. 11. (b) Develop and apply harmonised criteria, assessment procedures and entitlements for assessing the degree of impairment for all persons with disabilities regardless of the cause of the impairment;

10. In the Federation of BiH, the Federation Ministry of Labour and Social Policy has prepared a Rulebook on Uniform Criteria and Procedures for Health Assessment with a unique list of disabilities and submitted it to the Institute for Health Assessment for adoption by the administrative authorities and the adoption and application are the responsibility of the administrative authorities and other competent Federation ministries.

11. When it comes to assessing the percentage of disability in Republika Srpska, it is done by several competent authorities, which depends on the type and cause of the disability, as well as the time when the disability occurred. Implementation of this recommendation is foreseen in the 2017–2026 Strategy for Improving the Social Position of Persons with Disabilities through the harmonisation of legal provisions for the assessment of disability in various systems, the holder of which is the Inter-ministerial Authority of the Government of the Republika Srpska for Support to Persons with Disabilities, which is planned for the period 2020–2026.

Ref. para. 11. (c) Adopt and apply the concept of reasonable accommodation with effective sanctions in order to ensure that the denial of reasonable accommodation constitutes discrimination on the ground of disability;

12. The issue of reasonable accommodation has been defined multisectorally and in line with the Convention in the Strategy for the Promotion of the Rights and the Position of Persons with Disabilities of the Federation of BiH (2016–2021). The Federation Ministry of Physical Planning appropriated BAM 2.5 million in order to fulfil obligations under the Accessibility Strategy.

13. In order to implement the concept of reasonable accommodation for persons with disabilities, the FBiH Law on Rights, Obligations and Responsibilities of Patients provides for an obligation of any healthcare facility to provide a patient with a disability who is not able to be informed in the usual manner with a sign language interpreter or written information comprehensible to the patient. Further, there is the Rulebook on Detailed Requirements Concerning Space, Equipment and Personnel for Establishing Health Institutions and Performing Health Care Activities of the FBiH, which defines requirements for access for people with disabilities.

¹ Directives: 1991/533/EC; 1999/70/EC; 1997/81/EC; 2003/88/EC; 2000/78/EC; 2006/54/EC ; 1994/33/EU; 1992/85/EC; 2010/18/EC; 2001/23/EC; 1998/59/EC; 2008/94/EC; 96/71/EC; 2008/104 and 2002/14/EC.

² FBiH Official Gazette, 46/16.

14. The 2017–2026 Strategy for Improving the Social Position of Persons with Disabilities in the Republika Srpska envisages the concept of reasonable adjustment in all areas through different goals and activities.

Ref. para. 11. (d) Introduce effective and appropriate remedies, as well as progressive sanctions for public and private sector.

15. For the establishment and operation of public and private health institutions in the Federation of Bosnia and Herzegovina, it is necessary to fulfil the requirements set forth in the Rulebook on Detailed Requirements Concerning Space, Equipment and Personnel for Establishing Health Institutions and Performing Health Care Activities of the FBiH. Health inspections are in charge of supervision of health institutions.

Ref. para. 29. The Committee recommends the State Party to take effective legal and administrative measures to prohibit the practice of involuntary commitment or hospitalization, forced medical and, in particular, forced psychiatric treatment on the basis of impairment and to provide sufficient community-based alternatives. It also recommends that the State Party revise the current legislation in relation to survivors of torture and sexual violence, with special attention to provide appropriate compensation and access to effective remedies, and that it consider revising the way in which burden of proof is currently applied.

16. In 2006, the Federation Ministry of Labour and Social Policy amended the Law on the Basics of Social Protection, the Protection of Civilian Victims of War and the Protection of the Families with Children, where the new group of beneficiaries “a special group of civilian victims of war”, which encompasses victims who survived sexual abuse and rape, was introduced. This group is entitled to “monthly personal benefit”. The last amendments to the aforementioned law, 2016, provides for the establishment of a special, expert and independent commission that determines the facts in administrative proceedings and gives its opinion based on this, in order to eliminate unnecessary retraumatization of the victim.

17. In the Federation of BiH, an intersectoral working group, supported by experts in the field of mental health, was appointed to develop the Standards for Individual Assessment of People with Disabilities in order to provide health and social care services to these people. The Working Group made a review of the situation, a proposal for further activities and recommendations in terms of improving the situation and rights of persons with mental disorders, especially those who need certain community-based services and support. The review included the legal framework, capacities and services and good practices from other countries for both social welfare and health care sectors. The review also looked at cases of involuntary commitment in social care institutions because of a series of judgments of the Constitutional Court of Bosnia and Herzegovina and the conclusions reached by the court on the applications of persons with mental disorders who complained that they were involuntarily committed in certain social care institutions in the FBiH. The review puts a special focus on the development of services in the community, social work centres and services and mental health centres, as well as the cooperation of higher-level health institutions with primary care services. All of this aims to provide a complete set of health and social care services that need to be opportune and in accordance with the needs of those people, while ensuring that their basic human rights are not compromised. The review includes expert questions aimed at developing standards for individual assessment of the situation of persons with mental disorders, establishing clear criteria for staying in institutions or staying in the community. The document gives recommendations and conclusions to competent decision-makers in order to resolve disputable questions about the way in which persons with mental disorders are admitted to social care institutions, but also about community empowerment programmes in general.

18. The Republika Srpska Government adopted the Action Plan in order to prevent future violations of human rights found in the judgment of the *European Court of Human Rights in Hadžimejlić et al. against BiH*. Activities under the project that leads to deinstitutionalisation of care for persons with mental disorders and diseases as well as to strengthening of services in local communities for these beneficiaries are under way. Further, consultations were conducted with social care institutions for commitment of the

persons and data on persons with mental disorders and diseases were collected. Training was carried out in occupational therapy; also nurses working in social care institutions attended it and activities for preparation of continuing training are in progress. Further, expert supervision was carried out at the institutions for the elderly in the Gerontological Centre, Banja Luka, and following-up of recommendations for treatment of persons with mental disorders and diseases is monitored. For future activities other than planned and mentioned, it is planned to introduce a better quality, more detailed and more functional electronic database and keep records in social care institutions in terms of improving the work of institutions through easier monitoring of each beneficiary. In this way, every beneficiary, therapy, occupational therapy, beneficiaries' movement, cooperation with relatives and other institutions, professional staff and organization of the institution's work and finance will be more easily monitored. In this way, through uniform records in all institutions, it would be easier to conduct expert supervision by the Ministry of Health and Social Protection of the Republika Srpska, as well as analytical and research work resulting in proposals for realistic measures for improving the work of the institutions and position of beneficiaries in institutions, as well as involving the beneficiaries in different services in local communities.

19. The Law on the Protection of Victims of War Torture of the Republika Srpska, which is coordinated by the Ministry of Labour and Veterans Disability Protection of the Republika Srpska, is being drafted, while the surviving victims of torture and sexual violence exercise various rights depending on the cause of their origin (civilians disabled in wartime, persons disabled at work, militaries disabled in wartime and civilians with disabilities in accordance with the Law on Social Protection).
