



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

Seventeenth session

20 March–12 April 2017

Agenda item 7

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

### List of issues in relation to the initial report of Bosnia and Herzegovina

Addendum

### Replies of Bosnia and Herzegovina to the list of issues\*

[Date received: 2 March 2017]

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\* The present document is being issued without formal editing.



## **Acronyms**

BiH	Bosnia and Herzegovina
RS	Republika Srpska
FBiH	Federation of Bosnia and Herzegovina
BD	Brcko District of BiH

## A. Purpose and General obligations (arts. 1–4)

### Reply to paragraph 1 of the list of issues (CRPD/C/BIH/Q/1)

1. The organizations whose representatives sit on the Council for Persons with Disabilities as well as other organizations of persons with disabilities from all over BiH participated in putting together the Report on the Implementation of the Convention on the Rights of Persons with Disabilities in BiH by means of open public debates where they had had an opportunity of giving their opinions and suggestions.
2. In BD, the BD Associations of War Veterans as stakeholders were consulted and public debates and round tables were held after successful completion of the draft Law on Additional Rights of Families of Fallen and Disabled War Veterans.
3. The RS Government has an obligation to hold consultations with the alliances of associations of persons with disabilities that have acquired the status of an organization in public interest<sup>1</sup> in accordance with the Law on Associations and Foundations<sup>2</sup> and have been given an opportunity to use the name Republika Srpska in accordance with the Law on the Protection of the Name Republika Srpska.<sup>3</sup> Further, competent ministries hold consultations with all other organizations and regional coalitions of people with disabilities depending on the area they cover.
4. Associations of persons with disabilities that are registered at the state level, as members of committees and working bodies and with the approval of the FBiH Ministry of Labour and Social Policy, participate in the design, implementation and monitoring of strategic, action, legal and other important programmes for this group of people. Associations that are registered at the cantonal and municipal levels are involved through a process of consultation and public hearings.

### Reply to the issues raised in paragraph 2 of the list of issues

5. BiH appropriated BAM 40.000,00 in grants from the budget of the BiH Ministry of Human Rights and Refugees for the first time in 2016 to support associations of persons with disabilities in BiH, which are intended for the promotion of rights of persons with disabilities in BiH and general awareness of this group. There is a plan for coming years to further promote the rights of persons with disabilities in BiH in this way.
6. There are several sources of social and financial assistance for people with disabilities in Brecko District such as: health care, provision of medicines and medical supplies; medical rehabilitation in spas in the country and abroad; reimbursement of travel costs for treatment abroad; orthopaedic and other health aids; adapting access to apartment and other buildings; housing allocation or funding for housing; priority in employment for members of the core family of fallen soldiers and disabled war veterans; priority in enrolment in educational institutions, scholarship, accommodation in boarding schools of children of fallen soldiers and disabled war veterans; free textbooks for children of fallen soldiers and disabled war veterans; priority in reconstruction of homes destroyed or damaged in the war belonging to families of fallen soldiers and disabled war veterans; the

<sup>1</sup> The status of an organization in public interest is granted on the grounds of existence of an association of persons with disabilities in all municipalities in RS. Consultations are held with the Alliances of Associations of Persons with Disabilities that have acquired the status of an organization in public interest on all issues concerning persons with disabilities as well as with an inter-sectoral body of the RS Government in support of persons with disabilities that is a permanent, professional, advisory and inter-sectoral coordinating body of the RS Government, which all other associations of persons with disabilities can turn to.

The Decision on Amendments to the Decision on Granting the Status of an Organization in Public Interest number 04/1-012-2-2264/10 issued by the RS Government on 4 November 2010. The seven associations whose activities related, among other things, to the improvement of the social situation of persons with disabilities acquired the status of an organization in public interest.

<sup>2</sup> RS Official Gazette 52/01, 42/05.

<sup>3</sup> RS Official Gazette 73/08.

provision of a parking lot in front of public institutions for the disabled and their proper labelling; and reimbursement of funeral expenses.

7. RS passed new legislation<sup>4</sup> regulating this matter in more detail, depending on the competence of ministries. The RS ministries have supported programme activities of the alliances of people with disabilities that are in public interest<sup>5</sup> as well as project activities of other association of such persons, associations of citizens, institutions of social welfare and social and humanitarian organizations.<sup>6</sup>

8. The FBiH Ministry of Health has provided support to associations of users of mental health services by strengthening their capacities; support to projects aimed at combating stigma and discrimination, advocating for their human rights, and support to employment within the BiH Mental Health Project. Training in structured management was held for 60 associations of users of health services, including mental health services.

9. The FBiH Ministry of Labour and Social Policy passed the Law on Social Protection, Protection of Civil War Victims and Families with Children<sup>7</sup> to provide for basic rights and services for people with non-war related disabilities and civilian victims of war in FBiH.<sup>8</sup> For many years, each Entity appropriated BAM 630.000,00 to cover the costs of 15 alliances of associations of persons with disabilities registered in the Entities, while these funds decreased in 2016 to the amount of BAM 540.000,00, which made around 6.1% of the 2016 FBiH budget aimed at funding financial support to persons with non-war related disabilities and civilian victims of war.

10. In FBiH, 35 projects with 1,150 people directly participated and another 30 smaller projects were implemented in 29 communities in BiH in order to improve social inclusion and quality of life of people who use mental health services. In 2013, the Mental Health Project in BiH provided direct support to 32 associations in the form of grants for projects amounting to BAM 125.000,00. Currently, six projects are being implemented by users' associations, and 4 more projects funded with approximately BAM 60.000,00 are under preparation. Preparations for the development of a model of social entrepreneurship focused on working (re)integration of persons with mental disorders are underway and BAM 80.000,00 are appropriated for the development and the implementation of a pilot project of social entrepreneurship to be spent by February 2018.

### **Reply to paragraph 3 of the list of issues**

11. The legislation of BiH does not provide a uniform and single definition of a person with disabilities in line with the UN Convention on the Rights of Persons with Disabilities, because all laws have not been amended. Various laws define persons with disabilities differently with different conditions and criteria for obtaining the status, giving different definition of disability and such definitions are used only for the purpose of exercising these rights and they include certain elements related to the time and circumstances of disability occurrence. There is still no uniform methodology or unique institutional framework for assessing the degree of disability for all persons with disabilities, regardless of age, type and cause of disability, which would have uniform criteria and procedures based on the International Classification of Functioning of the World Health Organization.

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<sup>4</sup> Law on Games of Chance, the Rulebook on the Allocation of Funds and special rulebooks.

<sup>5</sup> Associations in public interest that are supported are: RS Muscular Dystrophy Alliance, RS Alliance of Deaf People and People Hard of Hearing, RS Alliance of the Blind, RS Alliance of Paraplegics, People Suffering from Polio and Other People with Disabilities, RS Alliance of Associations Assisting Mentally Disabled Persons and the RS "Udas" Association of Amputees.

<sup>6</sup> The Ministry of Health and Social Welfare has endorsed the programmes from the games of chance and taken the funding over from the Ministry of Administration and Local Self-Government while the Ministry Administration and Local Self-Government co-funded projects from the current grant for foundations and associations.

<sup>7</sup> (FBiH Official Gazette 36/99, 54/04, 39/06, 14/09).

<sup>8</sup> The basic rights and services for people with non-war related disabilities and civilian victims of war include personal disability allowance, attendance allowance, orthopaedic allowance, help with the cost of treatment and procurement of orthopaedic aids, occupational training (professional rehabilitation, re-training and additional training) and employment.

12. Thus, the BD social welfare scheme uses different definitions in different areas: a person with disabilities is considered to be an adult person who is completely or partially unable to work due to physical or mental impairments; a war veteran with disabilities is a person with disabilities who has been granted the status of disabled war veteran by the competent entity ministry etc.

13. The most recent amendments to the RS Law on Social Welfare<sup>9</sup> have brought the definition of persons with disabilities in line with the definition in the Convention.

14. Conclusion of the FBiH Government No. 890/2011<sup>10</sup> ordered that all laws in FBiH dealing with persons with disabilities had to be brought in line with the Convention on the Rights of Persons with Disabilities and the BiH Disability Policy. The next step was drafting legislation on uniform principles and a framework of financial support for persons with disabilities in FBiH, which was adopted by the House of Representatives of the FBiH Parliament in 2014, but it has not been passed yet in the House of Peoples.

#### **Reply to paragraph 4 of the list of issues**

15. The new draft of the FBiH Strategy for the Promotion of Rights and the Status of Persons with Disabilities (2016–2021) envisages a review of alignment of valid relevant laws with the Convention on the Rights of Persons with Disabilities as a two-year activity of the FBiH Ministry of Labour and Social Policy, UNICEF Office in BiH and the health and education sectors.

## **B. Specific rights (arts. 5–30)**

### **Equality and non-discrimination (art. 5)**

#### **Reply to paragraph 5 of the list of issues**

16. People with disabilities exercise their rights as provided for in the Law on Prohibition of Discrimination.<sup>11</sup> The most recent amendments to the Law have added persons with disabilities as a particularly vulnerable group protected from discrimination by amending Article 2 respecting the definition.<sup>12</sup> This Law provides that “Prohibition of discrimination shall be applied to all public bodies, all natural and legal persons, in public and private sector, in all spheres, especially: employment, membership in professional organisations, education, training, housing, health, social protection, goods and services designated for public and public places and performing of economic activities and public services.” In accordance with the Law on Prohibition of Discrimination, any person or group of persons may seek protection of their rights in judicial and administrative proceedings. The law provides that, besides the court of general territorial jurisdiction, discrimination cases before courts of the first instances and appellate courts fall under jurisdiction of the court in whose territory the plaintiff has permanent or temporary residence and the court in the place where the harm occurred or discrimination was perpetrated.

17. In BD, persons with disabilities are protected in the social welfare system<sup>13</sup> and the system of protection of war veterans.

<sup>9</sup> RS Official Gazette 37/12, 90/16.

<sup>10</sup> Dated 5 September 2011.

<sup>11</sup> BiH Official Gazette 59/09, 66/16.

<sup>12</sup> “For the purpose of this Law, discrimination shall be any different treatment including any exclusion, limitation or preference based on real or assumed features towards any person or group of persons on grounds of their race, skin, colour, language, religion, ethnic affiliation, national or social origin, connection to a national minority, political or any other persuasion, property, membership in trade union or any other association, education, social status and sex, sexual expression or sexual orientation, and any other circumstance with a purpose or a consequence to disable or endanger recognition, enjoyment or exercise of rights and freedoms in all areas of public life.”

<sup>13</sup> Social benefits. i.e. financial aid and/or attendance allowance and health insurance.

18. In RS, an inter-sectoral body of the RS Government provides support for persons with disabilities. The Law on Legal Aid<sup>14</sup> prescribes the fundamental rights and principles for granting legal aid, forms of legal aid, entities that provide legal aid, legal aid beneficiaries and the conditions and manner of their exercising the right, monitoring and quality control of legal aid, the competence of the Committee for the Establishment and Control of Professional Standards of Legal Aid Service and funding.

### **Women with disabilities (art. 6)**

#### **Reply to paragraph 6 of the list of issues**

19. According to the Framework Laws on Education in BiH, every child has equal access to and equal opportunities of education without discrimination on any grounds.

20. The RS education legislation, ranging from pre-school up to higher education, does not contain discriminatory provisions concerning children with disabilities. Education of this category group occupies a significant place in the 2016–2021 RS Education Development Strategy.

21. The FBiH Ministry of Education and Science approved funds for projects with a view to removing prejudice and all forms of discrimination against people with disabilities and providing peer support within the following programmes: “Assistance to Inclusion Projects and Projects to Improve the Work with Children with Special Needs”, “Assistance to Projects to Improve Upbringing and Educational Work with Children with Disabilities” and “Support for Projects Improving the Inclusion in Preschool and Primary Education”. The Ministry supports projects within “Support to Programmes for Adults to Complete Primary School with a Focus on Women” Programme with a view to achieving social integration and gender equality, for which purpose, BAM 19,624.00, BAM 10,000.00, BAM 23,300.00 and BAM 17,360.00 were appropriated in 2013, 2014, 2015 and 2016, respectively.

#### **Reply to paragraph 7 of the list of issues**

22. The BiH Law on Gender Equality<sup>15</sup> prohibits any form of discrimination based on sex in all areas of life and work.

23. The 2013–2017 BiH Gender Action Plan<sup>16</sup> contains three strategic objectives within which there are priority areas of activities necessary to achieve gender equality in all areas of life and work, both in the public and private spheres. It provides guidelines for the preparation of annual operating plans at the Entity, cantonal and local levels and follows the priorities of all levels of governance in BiH.

24. The document identifies priority and cross-cutting areas. While planning activities in the institutions, it is necessary to include the principle of improving the position of multiply marginalized groups of women and men, including persons with disabilities. It is necessary to pay attention to the specific needs of persons who are subjected to multiple discrimination, including gender aspects and problems that are faced, for example, by women with disabilities.

25. Funds from the Funding Mechanism for the Implementation of BiH Gender Action Plan (FIGAP Programme) supported the projects of non-governmental organizations whose objectives were related to the improvement of the rights of women with disabilities.

26. FIGAP also supported website [www.zenskaprava.org](http://www.zenskaprava.org) of “Legal Aid Centre for Women” Non-governmental Organization from Zenica, whose goal was to provide women from BiH with legal advice on family, labour, civil and inheritance rights. “A Legal Guide for Every Woman” was published and it deals with the rights of labour law, health and social protection (with an emphasis on the rights of mothers and children, such as maternity

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<sup>14</sup> RS Official Gazette 120/08, 89/13, 63/15.

<sup>15</sup> BiH Official Gazette 32/10 – consolidated text.

<sup>16</sup> Adopted at 62nd meeting of the BiH Council of Ministers held on 3 September 2013.

benefits and other benefits), rights in the field of labour relations and the rights of women with disabilities under state and Entity legislation. The guide has been distributed throughout the country and the website has been promoted at two promotional events in FBiH and RS.

27. With the goal of cultural integration of women with disabilities in the community in mind, UDAS Amputees' Organization of Banja Luka was supported. Their project titled "The Right of Women with Disabilities to Artistic Expression" resulted in the first art colony for women with and without disabilities.

28. "The Association of People with Poliomyelitis" of Kiseljak implemented "Sensorimotor Integration" Project as the state-of-art concept of treating serious diseases, cerebral palsy and various forms of brain and spinal cord injuries. The project has improved technical education of these people (computer skills).

29. "SNAGA (POWER)" Citizens' Association of Mostar supported mothers of children with disabilities (psychological and educational support, assistance by professionals) to make life easier for them and their children and to integrate into society. The conclusion is that employers do not consider giving jobs to mothers who have children with disabilities because they do not believe they could adequately perform. If the opportunity for a job arises, a problem arises where the child can be left to care of because of a lack of inclusive kindergartens and the kindergarten staff is not sufficiently trained to work with such children.

30. The first conference of women with disabilities in BiH was held in Banja Luka on 6 March 2015 hosted by the "Partner" Humanitarian Organization and supported by BiH TACSO with an aim of empowering women with disabilities, their networking and providing assistance by BiH institutions. The conference highlighted the issue of double discrimination and encouraged a dialogue and collaboration among stakeholders with the aim of pointing out the problems and needs of women with disabilities. On this occasion, the BiH Law on Gender Equality and Gender Action Plan, which is a strategic document for achieving gender equality in BiH, were presented to the participants.

31. Within "Equality for All" activities of the Civil Society Coalition in the fight against discrimination, which are financially supported by USAID and the Open Society Fund of Bosnia and Herzegovina, a public debate was held on "Do all women have the same right to health – policies and practices?" Issues of women with disabilities in the areas of health care and the issue of putting funds in mobile mammography were discussed.

32. Programmes of co-funding of employment of returnees, persons with disabilities, the long-term unemployed, Roma, women victims of domestic violence and others are implemented in BiH. Existing data on the state of the labour market indicates that certain groups of working population face specific obstacles in the process of integrating into the labour market.

33. A small proportion of women with disabilities is included in employment programmes: in FBiH, in 2015, 248 people with disabilities got a job, of which 66 persons or 26.6% were women. In RS, in the period from 2013 to 2016, 547 persons got a job through the Fund, of which only 34 or 6.2% were women. The most difficult to employ group is the group of women with a higher degree of functional disability, regardless of qualifications.

34. With regard to health care, it must be emphasized that in BiH there are 4 gynaecological exam tables that can be adapted to easily move a woman into or out of a wheelchair (in Banja Luka, Sarajevo, Tuzla and Bijeljina). Medical staff poorly handles the equipment, they are uneasy and do not know how to assist a woman with a disability, which is why women with disabilities avoid using healthcare services and visit a doctor only in case of major difficulties and certainly do not have preventive examinations.

35. When it comes to political participation of women with disabilities, there is almost no record of participation of women with disabilities in political life. No woman with a disability is representative in the Entity parliaments or the BiH Parliamentary Assembly. There have been no women with disabilities on candidates' lists of political parties or among heads of public institutions.

36. Results of neglect of this category group are: no access to facilities, inadequate health care services and a failure to recognize their specific needs in strategy and policy development.

37. The Gender Equality Agency of Bosnia and Herzegovina carried out activities with the aim of gender mainstreaming in the Constitutions of BiH and Entities, to ensure the rights of vulnerable and socially excluded groups. With the support of UNIFEM, “Together to Gender Equality, Equal Opportunity Policies through Constitutional Changes in BiH” Publication was developed and promoted as a continuation of the activities of the Regional Conference on “Gender Equality and Equal Opportunities as a Segment of Human Rights in the Light of Constitutional Changes in BiH”.

38. The plan for the coming period is to follow up, through various kinds of activities, the improvement of gender equality for all vulnerable groups, especially women with disabilities.

### **Children with disabilities (art. 7)**

#### **Reply to paragraph 8 of the list of issues**

39. Corporal punishment has not been completely prohibited yet in entire Bosnia and Herzegovina. Only the RS Family Law prohibits physical punishment of children. In this respect, Measure 6 of the 2015–2018 Action Plan for Children stipulates that it is necessary to submit the initiative for the adoption of laws that prohibit all corporal punishment of children in all settings, including the punishment at home. In this regard, in October 2016 the BiH Council for Children submitted an initiative to amend the Family Law, the Law on Social and Child Protection, the Law on Protection from Domestic Violence, the Criminal Code and the Law on Health Care in the Federation, RS and BD, as well as the Framework Law on Preschool and Primary Education and Upbringing and the Sports Law, with the aim of introducing an explicit prohibition of all corporal punishment of children that would apply to all settings where children live.

### **Awareness-raising (art. 8)**

#### **Reply to paragraph 9 of the list of issues**

40. The Ministry of Human Rights and Refugees and other entity ministries responsible for disability rights regularly mark 3 December – International Day of Disabled Persons with full media coverage, which aims to raise general awareness of the rights and difficulties faced by people with disabilities and their families in Bosnia and Herzegovina.

41. The RS Law on Public Broadcasting System and the RS Law on the Radio and Television provides that the public service is required to adjust the entire program to the needs of persons with hearing impairments and other persons with special needs. The RS Radio Television is the only television station in RS broadcasting in the sign language and once a week it broadcasts “In Focus”, one-hour show dedicated to the issues of persons with disabilities, and “A Weekly Overview”, half-an-hour show in the sign language.

42. Articles 3 and 4 of the Press and Online Media Code that was signed by all the associations of journalists in BiH, relating to incitement and discrimination, provide that journalists will do their utmost not to monger and/or incite hatred and/or inequality on the basis of physical disability, and that the journalists must avoid prejudicial or insulting references to a physical disability.

43. The Association of the Blind of Sarajevo Canton has translated the Convention on the Rights of Persons with Disabilities in Braille.



## Accessibility (art. 9)

### Reply to paragraph 10 of the list of issues

44. The RS Ministry of Physical Planning, Construction and the Environment adopted the Law on Spatial Planning and Construction<sup>17</sup>, which provides that apartment buildings, buildings or parts of buildings that are used by the public or used for the exercise of a service or economic activity must be designed and constructed so that persons with reduced mobility abilities can have easy access and conditions for movement, work and stay. Pursuant to Article 124 of the Law, the Rulebook on Conditions for Planning and Designing Facilities for Easy Movement of Children and Persons with Reduced Mobility Abilities<sup>18</sup> was enacted. On 24 May 2013 the new Law on Spatial Planning and Construction<sup>19</sup> came into force to provide, in addition to the obligations taken over from the previous law, that the physical planning delegated legislation (zoning plan and regulation plan) defines conditions for the removal of barriers to the movement of persons with reduced mobility abilities. Further, the Law provides for a possibility of carrying out certain works without obtaining a building permit, such as works on stairs, halls and the like for adapting the access to and inside the building to allow unhindered access and movement for persons with reduced mobility abilities, with prior approval by all owners. Pursuant to Article 87, paragraph 2 and Article 194, paragraph 3 of the Law, the Minister issued a new Rulebook on Conditions for Planning and Designing Facilities for Easy Movement of Children and Persons with Reduced Mobility Abilities.<sup>20</sup>

45. The RS Law on Amendments to the Law on Railways<sup>21</sup> complies with Directive 2009/9/EC. This Law provides that access to places intended for embarking and disembarking of cable car users, if the cable car is designed for the transport of children or persons with reduced mobility, must be adapted to their specific needs.

46. Amending the Law on Road Transport, the Ministry of Transport and Communications incorporated provisions respecting persons with disabilities in the Law. Article 5 of the RS Law on Amendments to the Law on Road Transport<sup>22</sup> provides that a taxis business can be operated with passenger motor vehicles adapted for transport of persons with special needs (disabilities).

47. Sports for persons with disabilities are defined by the RS Sports Law<sup>23</sup> in Articles 35, 36, 37 and 38. One of the most important facts is that Article 35, paragraph 3 of the Sports Law defines that the “owners of sports facilities are required to provide access for persons with disabilities to sports facilities”.

48. Provisions of the Decree on Spatial Standards, Urban and Technical Conditions and Norms to Prevent the Creation of Architectural and Urban Barriers for Persons with Reduced Mobility Abilities<sup>24</sup> defines accessibility, improvement and adaptation of accessibility and provides for obligatory accessibility in planning, designing and constructing of public, commercial, residential and residential and commercial buildings, all other public areas as well as all construction, finishing and installation works, as well as the conditions and methods of simple adaptation of accessibility of residential and residential-commercial buildings, so as to satisfy the requirements of accessibility and use of aids of various categories of persons with reduced mobility abilities, accessibility requirements are part of the emergency exit requirements, the owner of the building mandatory keeps fulfilling accessibility requirements so that the conditions of use of various aids by different categories of persons with reduced mobility abilities should not be diminished.

<sup>17</sup> RS Official Gazette 55/10.

<sup>18</sup> RS Official Gazette 44/11.

<sup>19</sup> RS Official Gazette 40/13.

<sup>20</sup> RS Official Gazette 93/13.

<sup>21</sup> RS Official Gazette 24/12.

<sup>22</sup> RS Official Gazette 12/13.

<sup>23</sup> RS Official Gazette 4/02, 66/03, 73/08, 102/08.

<sup>24</sup> FBiH Official Gazette 48/09.

## Situations of risk and humanitarian emergencies (art. 11)

### Reply to paragraph 11 of the list of issues

49. Issues related to emergencies and humanitarian crises are the responsibility of the Ministry of Security Protection and Rescue Sector and the Civil Defence<sup>25</sup> at the levels of Entities and BD. The Methodology for Drawing up a Plan of Protection and Rescue from Natural and Other Disasters by Institutions and Authorities of BiH<sup>26</sup> prescribes the protection of vulnerable category groups, including people with disabilities. In addition, in the instructions to citizens, the website of the Ministry of Security Protection and Rescue treats also vulnerable groups, i.e. persons with disabilities.

50. In RS, the “Social Work in Crisis” Project provided support to the social welfare centres in operation and provision of services in emergencies by developing plans of operation of social welfare centres in emergencies and published the Manual for Operation of Social Welfare Centres in Emergencies Caused by Natural Disasters.

## Equal recognition before the law (art. 12)

### Reply to paragraph 12 of the list of issues

51. The BD Basic Court receives requests for guardianship because of legal incapacity of around 12 persons on a yearly basis, usually because of the persons’ mental illness and inability to fend for their rights and interests. In current practice, one medical expert gives expert opinion of legal incapacity, with all relevant documentation on the health and social status of “beneficiaries”.

52. In RS, the Minister of Health and Social Welfare issued a decision to appoint a working group for the development of action plans to prevent future violations of human rights under Article 5 of the Convention regarding involuntary placement of persons with mental disabilities in RS, based on the judgment of the European Court in *Hadžimejlic and Others against Bosnia and Herzegovina*, which was adopted at the 88th meeting of the RS Government held on 25 August 2016, published in the RS Official Gazette 77/16 and entered into force on 16 September 2016.

53. In the opinion by Ms. Katarina Nedeljkovic of the Department for the Execution of Judgments of the European Court of Human Rights regarding the compliance of the Action Plan adopted by the RS Government in order to implement general measures for the execution of judgment in *Hadžimejlic and Others against BiH*, it would be very useful to amend the Action Plan by adding an activity that will be carried out after preparation of consolidated information on persons who are in a position similar to applicants’ position to ensure that competent social welfare centres initiate, without delay within precisely set deadlines, proceedings before the competent courts to review the need of their future involuntary placement and to issue appropriate court decision. Next, they consider that the Action Plan should be amended to ensure the implementation of adequate and effective measures to change the practice of social welfare centres, ensuring that in future they will not decide on the need of placement but the competent courts will do it instead. The Action Plan should be amended in this regard with activities to ensure that the competent courts will decide on the need of placement of persons with mental disabilities in institutions of social care and the social welfare centres will automatically leave this issue to courts to decide, which would require amending of legislation so that social welfare centres will not conduct administrative proceedings, so it is difficult to plan any kind of support system in decision making.

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<sup>25</sup> FBiH Civil Defence Administration and RS Civil Defence Administration and Public Security Department of Brčko Distrikta of Bosnia and Herzegovina (Civil Defence Service).

<sup>26</sup> (Official Gazette 74/12), Article 9, para. (3), pint d) and para. (4), Article 10, pont d).

## **Access to justice (art. 13)**

### **Reply to paragraph 13 of the list of issues**

54. In BD, access to justice in civil court proceedings, especially for people who are deaf and hard of hearing, is provided by the Legal Aid Office by providing a sign language interpreter.

## **Liberty and security of the person (art. 14)**

### **Reply to paragraph 14 of the list of issues**

55. The RS Law on the Protection of Persons with Mental Disorders<sup>27</sup> lays down the methods of treatment of persons with mental disorder, from the moment of decision by psychiatrist on keeping that person without his or her consent to the moment of court's decision on involuntary placement. It does not matter whether it is a person who has just come or has been brought to a medical institution or a person who is already under treatment in a medical institution but has revoked his consent for voluntary placement. A person with severe mental disorders who, because of his mental condition, seriously and directly threatens his life or health or safety or the life or health or safety of other persons and there is an absolute need for hospitalization, can be placed in a medical institution without his consent in the procedure for involuntary confinement and placement. The person is placed on the basis of a referral by a medical doctor who is not employed in the health institution in which the person is placed and who personally examined and wrote proper examination findings or the person may be brought by an authorized official of the competent Ministry of the Interior, within 24 hours of the decision to the competent court. The medical institution submits a notice of involuntary keeping together with the reason for confinement and the available medical documentation. In the process of involuntary placement of persons with mental disorders in a medical institution the court acts in non-contentious proceedings. Before the decision on involuntary placement or discharge of person with mental disorders, the court obtains a written opinion of one of the psychiatrists on the list of court experts. Upon completion of the proceedings, the court makes a decision immediately and no later than three days. Confinement time of persons with mental disorders cannot be longer than six months, i.e. one year (the Law on Non-contentious Procedure). A decision of involuntary placement in a medical institution and discharge from healthcare facility may be appealed within eight days of receipt by the health institution confining the person with mental disorder, the confined person, his guardian or temporary representative of the guardianship authority.

56. The FBiH Criminal Procedure Code<sup>28</sup> does not contain specific provisions for persons with disabilities in the provisions respecting detention.

## **Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)**

### **Reply to paragraph 15 of the list of issues**

57. In RS, physical force to protect persons with mental disorders is applied in a medical institution only when it is the only means to prevent his attack endangering the life or health of another person or his own life or health or violently destroying or damaging someone else's property. The Law on the Protection of Persons with Mental Disorders<sup>29</sup> specifies procedures and prescribes the conditions under which it is allowed to use physical force on persons with mental disorders confined in a health facility.

58. In FBiH, consent to treatment and consent to the medical scientific research in health care facilities are regulated by the Law on Rights, Obligations and Responsibilities

<sup>27</sup> RS Official Gazette 46/04.

<sup>28</sup> FBiH Official Gazette 35/03, 37/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07, 9/09.

<sup>29</sup> RS Official Gazette 46/04.

of the Patient,<sup>30</sup> the Law on the Protection of Persons with Mental Disorders<sup>31</sup>, the Law on Pharmaceuticals and Medical Devices<sup>32</sup> and the Rulebook on Clinical Testing of Medicines and Medicinal Devices.<sup>33</sup> Under these Laws, the patient must not be subjected to any medical procedure without his consent. If the patient is a minor or a person deprived of legal capacity, a medical procedure may be taken only with notice and consent of his parents, legal representative or guardian, and the patient should be involved in the decision to consent to a proposed medical procedure in accordance with his maturity and the ability to reason. A patient with disabilities accepts a medical procedure by expressing his consent in any form appropriate for him, adapted to his level of education and physical, psychological and emotional state.

59. Pursuant to the Law on the Protection of Persons with Mental Disorders<sup>34</sup> people with mental disorders who can understand the nature, consequences and danger of the proposed medical procedure can make a decision and express their will. The ability of the person is determined by a physician or a psychiatrist at a time when that person makes a decision and for this purpose the physician/psychiatrist issues a written confirmation, which is attached to medical records. This consent is not required if the obtaining of consent could jeopardize life of the person with mental disorder and the legal representative of the patient is informed thereof. If the medical procedure is carried out without the consent of persons with mental disorders, to what extent it is possible to explain the process of treatment and include in the planning of treatment.

60. According to the Law on Rights, Obligations and Responsibilities of the Patient<sup>35</sup> participation in medical and scientific research, clinical trials of drugs and medical devices is voluntary. Written consent of informed patient or his parents, legal representative or guardian is required for any of these; the right to withdraw previously given consent at any time, the right to remuneration for participation in research and the right to compensation for damages resulting from the research. Biomedical researches on persons with mental disabilities, children and minors can be carried out under special conditions only with the approval of the Commission for the Protection of Persons with Mental Disorders in the health institution.

## **Freedom from exploitation, violence and abuse (art. 16)**

### **Reply to paragraph 16 of the list of issues**

61. On 20 November 2012 in Banja Luka, the RS Ministry of Health and Social Welfare, the RS Ministry of Family, Youth and Sports, the RS Ministry of Education and Culture and the RS Ministry of the Interior signed a Protocol on the Procedure in Cases of Violence, Abuse or Neglect of Children.

62. The rights under the RS Law on Social Welfare<sup>36</sup> that a beneficiary can be granted are: allowance, attendance allowance, support of the equalization of opportunities of children and youth with disabilities, placement in an institution, placement in a foster family, home help and home care, day care, one-time cash assistance and counselling. In addition to the rights under this Law, any local government may issue a decision in accordance with the needs of the citizens to provide additional entitlements and services and set conditions and criteria for granting them. In addition, the Law allows each municipality to issue its decision and defines additional, extended rights that correspond to the specific needs of beneficiaries who live in the territory of the local community in accordance with the financial capacities of local budget. Additional benefits and services under paragraph 1 of this Article include: personal assistance to persons with disabilities, supported housing, sheltered housing, assistance with caring of adults after their leaving

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<sup>30</sup> FBiH Official Gazette 40/10.

<sup>31</sup> FBiH Official Gazette 37/01, 40/02, 52/11, 14/13.

<sup>32</sup> BiH Official Gazette 58/08.

<sup>33</sup> BiH Official Gazette 4/10.

<sup>34</sup> FBiH Official Gazette 37/01, 40/02, 52/11, 14/13.

<sup>35</sup> FBiH Official Gazette 40/10.

<sup>36</sup> RS Official Gazette 37/12, 90/16.

institutions or foster families, one-time assistance in kind, a soup kitchen, assistance with education of children from socially disadvantaged families, assistance with education of children with disabilities, subsidized utility costs for poor families, assistance with housing for poor families, funeral costs of basic permanent allowance beneficiaries, an emergency line, as well as other benefits and services as needed by local governments.

63. In FBiH, response to the violence involves a multidisciplinary approach that includes the involvement of the police, courts, social welfare centres, health institutions, educational institutions, non-governmental organizations and other entities. In 2008, a Memorandum of Understanding was signed by the FBiH Gender Centre, the Centre for Social Work of Jajce, NGOs: the Foundation of Local Democracy of Sarajevo, Medica (Zenica), Viva žene (Tuzla), Žene s Une (Bihać), Žene BiH (Mostar). Another type of specialized support services for victims of violence is SOS phone 1265 in FBiH. The line is open 24 hours and calls are free.

## **Protecting the integrity of the person (art. 17)**

### **Reply to paragraph 17 of the list of issues**

64. In RS, the health care of citizens and patients, including people with disabilities, is regulated by the Law on Health Care,<sup>37</sup> according to which health care is ensured at the national level or by local governments and employers, by taking specific actions on health promotion, prevention and treatment of diseases and conditions, rehabilitation of the sick and the injured, providing medicines and medical devices, environmental and labour protection and other specific activity. Article 8 of the Law defines that health care at the national level is ensured under the same conditions to all population and nosological groups of special social and medical importance (children, pregnant women, mothers, persons over 65 years of age, persons with disabilities, persons with mental retardation, unemployed persons registered with the employment office if they are not entitled to an allowance according to regulations on the rights of the unemployed, beneficiaries under regulations governing the rights of veterans, disabled veterans and families of soldiers fallen in the Defensive Patriotic War and the protection of civilian war victims, and different category groups of ill persons).

65. According to Article 17 of the Law on Health Care,<sup>38</sup> every citizen has the right to health care to exercise with respect for the highest possible standards of human rights and values, i.e. has the right to physical and mental integrity and security of person, as well as the respect for his moral, cultural and religious beliefs. The rights of citizens and patients in this context are enumerated and described in detail in this law.

66. In FBiH, the Law on the Protection of Persons with Mental Disorders<sup>39</sup> bans the use of psychosurgery and castration. The Law on Conditions and Procedure for Termination of Pregnancy<sup>40</sup> determines that a request for termination of pregnancy is submitted by a parent or legal guardian on behalf of pregnant juveniles and legally incapacitated women and the request is decided by the Commission for the Protection of Persons with Mental Disorders within a medical institution.

## **Liberty of movement and nationality (art. 18)**

### **Reply to paragraph 18 of the list of issues**

67. The RS passed the Law on Spatial Planning and Construction<sup>41</sup> which stipulates that buildings for collective housing, buildings or parts of buildings that are used by the public or used for the exercise of a service and economic activity, must be designed and

<sup>37</sup> RS Official Gazette 106/09, 44/15.

<sup>38</sup> RS Official Gazette 106/09, 44/15.

<sup>39</sup> Official Gazette FBiH br. 37/01, 40/02, 52/11 i 14/13.

<sup>40</sup> FBiH Official Gazette 29/77.

<sup>41</sup> RS Official Gazette 40/13.

constructed so that persons with reduced physical abilities are ensured unhindered access, movement, work and residence. The Law provides for a possibility of carrying out certain works without obtaining a building permit, such as works on stairs, halls and the like for adapting the access to and inside the building to allow unhindered access and movement for persons with reduced mobility abilities, with prior approval by all owners. Pursuant to Article 87, paragraph 2 and Article 194, paragraph 3 of the Law, the Minister issued a new Rulebook on Conditions for Planning and Designing Facilities for Easy Movement of Children and Persons with Reduced Mobility Abilities.<sup>42</sup>

68. The Law on Food and Beverage Establishments<sup>43</sup> provides for special minimal technical conditions for operation of such establishments that include conditions that are tailored to the needs of persons with disabilities.

## **Living independently and being included in the community (art. 19)**

### **Reply to paragraph 19 of the list of issues**

69. The RS Law on Social Welfare<sup>44</sup> provides for the right to a day care that includes different types of organized daily services and stays outside own family providing food, care, guarding, health care, upbringing, education, psycho-social rehabilitation, occupational and other services. Daily care can be carried out in another family, social care institution, private centres or day care centres organized and provided by public institutions, citizens' associations, religious communities and other entities.

70. The RS Ministry of Health Care and Social Welfare appointed a working group to draft the RS 2017–2026 Strategy for Improving the Situation of Older Persons including a plan of activities to improve the situation of older persons with disabilities.

71. The RS Ministry of Health Care and Social Welfare has appointed a working group to draft the RS 2016–2026 Strategy for Equal Opportunities of Persons with Disabilities, which produced a preliminary draft of the Strategy with action plans which set out de-institutionalization as one of objectives.

72. In July 2014 the FBiH Government adopted the FBiH 2014–2020 Strategy for de-institutionalization and transformation of social welfare. It was developed in accordance with EU guidelines for the transition from institutional care to community-based services as well as with the UN Guidelines for the Alternative Care of Children. It is based on the establishment of a sustainable system of services in order to prevent institutionalization or relocation of beneficiaries from institutions, the transformation of social care institutions, restructuring of Centres for Social Work and funding institutions in transition in a way that part of the funds from institutional care is directed at funding the development of non-institutional services and forms of accommodation.

## **Personal mobility (art. 20)**

### **Reply to paragraph 20 of the list of issues**

73. In BD, the requirements for obtaining mobility and communication aids are regulated by the Rulebook on the Procedure for Exercising the Right to Orthopaedic and Other Aids by Persons Insured with the BD Health Insurance Fund.<sup>45</sup>

74. In RS, the Rulebook on the Right to Medical Devices<sup>46</sup> determines the content, scope and manner of exercising the right to medical devices as well as the rights to health care, prescribed by the Law on Health Insurance. The method of exercising the right to medical device includes the process of proposing, prescribing and approving medical

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<sup>42</sup> RS Official Gazette 93/13.

<sup>43</sup> RS Official Gazette 15/10, 57/12, 36/13.

<sup>44</sup> RS Official Gazette 37/12, 90/16.

<sup>45</sup> BD Official Gazette 4/16.

<sup>46</sup> RS Official Gazette 114/12, 59/14, 94/14, 100/14.

devices. The right to a medical device is exercised through a legal person registered with the competent authority with which the RS Health Insurance Fund has a contract for supply of medical devices to insured persons. An insured person is entitled to a medical device in accordance with the medical indications and other conditions set in the List of Medical Devices, based on which an order for purchase/repair of medical devices is issued on the form attached to the Rulebook.

75. The matter of medicines and medical devices is regulated by the Law on Medicines and Medical Devices<sup>47</sup> which provides that RS is responsible for retail of medicines and medical devices. In accordance with this provision, the RS Ministry of Health Care and Social Welfare passed the Law on Pharmaceutical Activity.<sup>48</sup> Medicines and medical devices sold in pharmacies and medical devices sold in specialized stores must be of adequate quality, safety and efficacy. This is guaranteed for medicines with a licence for marketing in BiH and for medical devices with registration in the register of medical devices in the territory of BiH, which is a responsibility of the BiH Agency for Medicines and Medical Devices in accordance with the BiH Law on Medicines and Medical Devices.

76. Every year the FBiH Ministry of Education and Science supports projects to protect rights of children who are victims of abuse, paedophilia and begging from FBiH budgetary revenues from games of chance. Also associations and non-governmental organizations dealing with the rights of children and adults with disabilities apply for these funds.

## **Freedom of expression and opinion, and access to information (art. 21)**

### **Reply to paragraph 21 of the list of issues**

77. In recent years there has been a significant improvement in information accessibility for persons with disabilities. Information from the field and researches by organizations of persons with disabilities and other civil society organizations show that media programmes are not adapted to the blind and people with hearing impairments. They do not use subtitles or voice translation of programmes in a foreign language. Few shows on national television are translated in the sign language. Further, official correspondence is not in the sign language, Braille or any other available means, methods or form of communication of their choice of persons with disabilities.

78. There is no single regulation which regulates the obligation of public authorities and institutions to ensure the right of persons with disabilities to be provided with information in accessible formats and techniques.

## **Respect for home and the family (art. 23)**

### **Reply to paragraph 22 of the list of issues**

79. In BD, children with special needs/children with disabilities, who have passed through the BD system of social welfare, are usually children who have been staying with their families. The system of social and child welfare gives maximum support to families with children with special needs (higher child allowance, attendance allowance, health care services, aid in kind, subsidies for electricity).

80. In RS, the Law on Social Welfare<sup>49</sup> defines that beneficiaries of social welfare system are persons in need, including children with disabilities and persons with disabilities.

81. Disability is described in detail in the Rulebook on Determining the Capacity of People in the Process of Exercising the Right to Social Assistance and Determining the

<sup>47</sup> BiH Official Gazette 58/08.

<sup>48</sup> RS Official Gazette 118/09, 1/12, 33/14.

<sup>49</sup> RS Official Gazette 37/12, 90/16.

Functional State of a Beneficiary<sup>50</sup> and the Rulebook on the Needs Assessment and Guidance of Children and Youth with Disabilities.<sup>51</sup>

82. Compared to the 2012 medical model, current needs assessment and guidance of children and youth with disabilities, as well as functional assessment of persons with disabilities, are based on a social model. The system of classification in administrative proceedings on the basis of diagnosis has been abandoned and an individual support plan is tailored as one of the major breakthroughs in the social welfare system.

83. The Law on Social Welfare ordains developing of a mixed system of social welfare through the development of basic and extended rights and services that make an everyday support system for all persons with disabilities, including the right to day care that includes different types of organized daily services and stays outside own family.

## **Education (art. 24)**

### **Reply to paragraph 23 of the list of issues**

84. In RS, all laws governing education at the same time govern rights of children with special needs from pre-school to higher education. The children with special needs are included in regular primary education (inclusion) and teachers work with such students applying special, individual programmes adapted to their abilities. Regular and special schools are places of secondary education.

85. The Minister enacts the Rulebook on the Method and Conditions of Preschool Curricula Implementation for Children with Disabilities and the curricula for students with special needs for each type and degree of disability. Within the Preschool Education Centre of Banja Luka, there is a preschool institution for children with disabilities (“Marija Mazar”) and four centres for education of children with disabilities.

86. Scholarships are provided to students with disabilities of the first, second and third category group who are entitled to attendance allowance.

87. This category group is paid attention to in the RS 2016 – 2021 Education Development Strategy. The strategic objectives are aimed at: making efficient and effective system of services for preschool education (organizing mobile teams of teachers and professional associates, developing the program of psycho-social support for parents of children with disabilities), inclusion of all children in compulsory nine-year primary education and upbringing, support to inclusion in secondary education with appropriate measures, increasing the competences of teachers through induction training and continuing professional development, strengthening social acceptance and support for students with disabilities, mitigation of barriers in order to facilitate access of students with disabilities and creation of an environment that will allow children with disabilities easier inclusion in the community after graduating from secondary school.

88. Through the Assistance to Projects to Improve Upbringing and Educational Work with Children with Disabilities Programme, the FBiH Ministry of Education and Science appropriated BAM 140,720.00, BAM 213,810.00 and BAM 230,350.00 in 2011, 2012 and 2013, respectively. Through the Support for Projects Improving the Inclusion in Preschool and Primary Education Programme, the Ministry allocated BAM 45,000.00 and BAM 156,000.00 in 2014 and 2015, respectively. Through the Support for Projects Improving the Inclusion in Preschool and Primary Education Programme, the amount of BAM 277,900.00 was appropriated in 2016. Within the Distribution of Funds of the Transfer to Fund Students’ Standard” Programme, the Ministry allocates funds to support students with disabilities from BiH who are studying in public higher education institutions in the FBiH, for which, BAM 110,000.00 were allocated in the period 2014–2015. With regard to the activities for the implementation of the 2008–2015 BiH Strategic Directions of Education Development, the FBiH Ministry of Education and Science was a partner in the Equal Opportunities for Students with Special Needs in Higher Education Project (EQOPP)

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<sup>50</sup> RS Official Gazette 116/12, 111/13.

<sup>51</sup> RS Official Gazette 117/12.



establishing offices for students with special needs in all public higher education institutions. Through the second Tempus-funded “Towards a Sustainable and Egalitarian Funding of Higher Education in Bosnia and Herzegovina, Montenegro and Serbia” Project, for the first time BiH joined the fifth cycle of EUROSTUDENT research on social dimension of higher education carried out in the period 2012–2015. During this period other important documents pertaining to education and inclusion of people with disabilities were adopted and they were: the 2011–2015 FBiH Strategy for Equalization of Opportunities for Persons with Disabilities; the FBiH 2012–2022 FBiH Strategic Directions of Higher Education Development; the 2015–2020 FBiH Strategic Directions of Career Guidance Development; the 2013–2017 FBiH Strategic Plan for Improvement of Early Childhood and Development.

## **Health (art. 25)**

### **Reply to paragraph 24 of the list of issues**

89. The RS Ministry of Health Care and Social Welfare co-ordinated the activities of the development of the 2010–2015 RS Strategy for Improvement of the Social Status of Persons with Disabilities and currently is coordinating the activities on the preparation of the 2016–2021 RS Strategy for Equal Opportunities of Persons with Disabilities. For the past ten years, the reform of the RS health system has been about the improvement of access to existing health services, which has included efforts to provide persons with disabilities with access<sup>52</sup> to existing health and rehabilitation services, taking account of their sex, age and all the specificities resulting from disability and to provide the same scope, quality and standard of health and rehabilitation services provided to other citizens, including services related to sexual and reproductive health and health programmes covering the entire population. The improvement of health services aimed at and adapted for persons with disabilities includes early identification and intervention in order to prevent appearance and worsening of disability. There were activities to raise awareness of health workers on human rights, dignity, autonomy and needs of persons with disabilities through training and the promotion of ethical standards in all areas of medical treatment. In one of the objectives listed in the Strategy – Ensure equal access to health care for persons with disabilities, regardless of gender, age, origin or degree of disability – included an activity titled: Provide sufficient number of gynaecological and obstetric clinics with adequate equipment for women with disabilities, which equipment was provided in accordance with the needs of women with disabilities, bearing in mind that all women with disabilities do not need special equipment when using health care services.

90. The FBiH guarantees the inalienable right to health care to all citizens, including persons with disabilities who use health care services under same conditions as other insured persons. The health care regulations lay down conditions for accessibility for persons with disabilities, including removing of architectonic barriers, providing a sign language interpreter or, if written information is required, the information in the letter understandable to the person. However, most health care facilities in urban and rural areas are physically inaccessible, and gynaecological and dental services are not adapted for persons with disabilities who cannot move by themselves, as well as persons with intellectual disabilities. Medical rehabilitation programmes still remain inaccessible for a large number of persons with disabilities and there are no adequate programmes to identify needs for orthopaedic and other appliances, either. In FBiH, couples who have a disability are entitled to one free IVF procedure, the funds being provided from the Solidarity Fund under the Human Reproduction of Persons with Disabilities Programme.

91. In 2012, based on the FBiH Policy for Improvement of Early Childhood Development adopted by the FBiH Government, the FBiH Ministers of Education, Health and Social Welfare signed the 2013–2017 FBiH Protocol on Cooperation in Improvement of Early Childhood Development. Cantonal protocols on inter-sectoral actions to improve

<sup>52</sup> Architectural accessibility, custom-tailored transport and special transport to health facilities, accessibility in terms of bringing health institutions and workers who provide health services closer to the places of residence and accessibility in terms of the exercise of the right to health care.

early growth and development of children and action plans are being developed. These activities were carried out with the support of UNICEF.

92. The Rulebook on the Continuing Professional Training in Early Detection, Diagnosis, Intervention and Monitoring of Development and Other Disorders That Affect the Growth and Development of Children was enacted to provide that all of these are carried out in a family setting or in the community, in health care facilities, kindergartens, schools and social care institutions. The process of professional training started in April 2015 and guidelines for experts in early childhood development were produced.

## **Habilitation and rehabilitation (art. 26)**

### **Reply to paragraph 25 of the list of issues**

93. The goal of the RS Policy to Improve Health of Population until 2020<sup>53</sup> is the improvement of public health, through the control of non-communicable and communicable diseases, the promotion of mental health and human rights, implementing the European Declaration on the Health of Children and Young People with Intellectual Disabilities and Their Families,<sup>54</sup> and through the protection of human rights of vulnerable groups and the development of mental health institutions that fight against stigmatization and support the reintegration in the community.

94. The goal of the 2011–2016 RS Policy to Improve Early Childhood Development<sup>55</sup> is the improvement of early growth and development and, striving for the highest standards of the community, to create optimal conditions for normal growth and development of children, so that every child, regardless of the environment of origin and their individual abilities, has conditions for a healthy start in life to be able to reach their full potential. The goal above, together with others, will be achieved by the following preferred course of action: improvement of detection, habilitation and rehabilitation of (interventions with) children with special needs.

## **Work and employment (art. 27)**

### **Reply to paragraph 26 of the list of issues**

95. Measures of affirmative action for the promotion of employment of persons with disabilities in the public sector are endorsed in BD.

96. In RS, Measures of affirmative action for the promotion of employment of persons with disabilities in the labour market and the public sector are incentive measures provided by the Fund for Vocational Rehabilitation and Employment of Disabled Persons to employers in the labour market and they include financial incentives for employment or self-employment of disabled persons and refunding of contributions for employed disabled persons under special conditions. These incentives are in accordance with the Law on Vocational Rehabilitation, Training and Employment of Disabled Persons.

97. Another type of incentive measures under Articles 26 and 27 of the Law are related to the obligation to pay special contribution by employers that are obliged to employ persons with disabilities, but they do not do it for objective reasons for which incentives are funded.

98. The positive effect of the incentive measures above is becoming weaker and weaker, because according to the Fund for Vocational Rehabilitation and Employment of the Disabled PI, interest in employment and self-employment of persons with disabilities in the private sector in the RS is on the decline (as can be seen from the table in the appendix), which can be explained with, first of all, the general economic environment.

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<sup>53</sup> RS Official Gazette 92/12.

<sup>54</sup> European Declaration on Health of Children and Young People with Intellectual Disabilities and Their Families.

<sup>55</sup> RS Official Gazette 37/11.

99. An overview of 2012–2016 employment and self-employment of disabled persons funded by the Fund for Vocational Rehabilitation and Employment of Disabled Persons PI:

<i>Year</i>	<i>People with disabilities employed</i>	<i>Funds Appropriated</i>
2012	260	674 934.52
2013	101	220 466.43
2014	59	99 600.00
2015	40	95 430.00
2016	40	104 684.59

100. In addition to the employment of persons with disabilities through stimulus measures provided by the Fund for Vocational Rehabilitation and Employment of the Disabled PI, employment of people with disabilities is also performed via the RS Employment Institute. According to that institution 297, 336 and 266 people with disabilities got a job in 2014, 2015 and the first ten months of 2016, respectively, which shows that employment through the Institute has an upward trend.

101. In the first ten months of 2016 there were a total of 2,001 disabled persons of different category groups as active job seekers on the records of the RS Employment Institute.

102. In FBiH, measures of employing persons with disabilities are carried as responsibility of the Fund for Vocational Rehabilitation and Employment of Persons with Disabilities. The table shows statistical indicators of measures taken by the Fund in the period 2011 – first half of 2016.

Table 1

**Cash incentives for new employment of persons with disabilities**

<i>Public call/year</i>	<i>Funds allocated</i>	<i>Number of employed persons</i>	<i>For a specified period</i>	<i>For an unspecified period</i>	<i>Under general conditions</i>	<i>Under special conditions</i>
December 2011	150 000.00	30	19	11	15	15
April 2012	792 348.04	83	66	17	30	53
November 2012	1 035 440.00	104	54	50	52	52
April 2013	1 220 854.00	132	73	59	42	90
October 2013	1 735 598.00	160	60	100	91	69
April 2014	1 885 911.00	163	18	145	71	92
October 2014	2 558 200.00	218	26	192	115	103
May 2015	2 944 200.00	244	60	184	151	93
October 2015	3 518 550.00	294	63	231	138	156
April 2016	3 404 450.00	282	62	220	143	139
<b>Total:</b>	<b>19 245 551.04</b>	<b>1 710</b>	<b>501</b>	<b>1 209</b>	<b>848</b>	<b>862</b>

103. The Fund supports the sustainability of employment, the development of enterprises for employment of persons with disabilities and vocational rehabilitation of people with disabilities.

104. Table 2 shows the funds allocated for these programmes/projects for the period 2011 – first half of 2016.

Table 2  
**Programmes and projects**

<i>Public call</i>	<i>Sustainability</i>	<i>Development</i>	<i>Cash incentives through development</i>	<i>Rehabilitation</i>	<i>Total by public call</i>
December 2011	553 075.00	132 800.00		164 125.00	850 000.00
April 2012	428 796.00	499 152.87		294 810.00	1 222 758.87
November 2012		739 224.48	148 500.00	229 300.00	1 117 024.48
April 2013		540 200.00	406 700.00	196 300.00	1 143 200.00
October 2013	657 091.00	411 770.00	216 615.00	256 720.00	1 542 196.00
April 2014	482 461.00	420 853.00	301 897.00	210 000.00	1 415 211.00
October 2014	792 316.00	453 893.00	320 300.00	130 132.00	1 696 641.00
May 2015	278 610.24				278 610.24
October 2015	342 750.79	664 751.80		237 472.62	1 244 975.21
April 2016	1 218 822.23	237 859.44		249 141.20	1 705 822.87

105. These programmes and rehabilitation projects supported 769 people with disabilities in the period 2011 – first half of 2016 and the development projects additionally employed 64 people with disabilities.

### **Adequate standard of living and social protection (art. 28)**

#### **Reply to paragraph 27 of the list of issues**

106. The BD Law on Social Welfare<sup>56</sup> and its budgetary implications are 100% applicable. All rights from the social (and child) care are feasible and financially supported. The process of BD social protection is centralized and as such functional.

107. In RS, the Law on Social Welfare provides several sources of funding of the social welfare system: public funds, which are provided in the RS Budget and local governments' budgets; donor funds (legal and natural persons) and contributions from citizens and own funds of the beneficiaries of social welfare system. Funds for exercise of the entitlement to financial assistance and the entitlement to attendance allowance are provided in equal shares by the local community level and RS level. The funding concept aims at appropriating more budgetary funds of local governments to regularly and adequately fund other entitlements provided by the Law on Social Welfare. The goal is to establish a uniform exercise of rights under the Law on Social Protection in the entire territory of RS. The Law on Social Welfare has increased nominal amounts of individual entitlements by introducing a flexible base of calculation and increasing the coefficient in calculation. The Law provides that the base for calculating benefits is the average net salary in RS in the previous year, which introduces automatic adjustment of monetary amounts to the general criteria/the movement of net salaries.

108. The Action Plan to Prevent Future Violations of Human Rights under Article 5 of the Convention in Respect of Involuntary Placement of Persons with Disabilities in Mental Health Institutions<sup>57</sup> envisages, in one of the objectives, relocation of persons with disabilities from mental health institutions into local communities in accordance with the individual plan of care and support tailored for each beneficiary and development of mixed support services to persons with mental disabilities in the local community.

109. When it comes to measures to tackle the differences in treatment that exist in different category groups of people with disabilities, they are planned in the draft FBiH Law on Common Principles and the Framework of Material Support for Persons with

<sup>56</sup> BD Official Gazette 1/03, 4/04, 19/07, 2/08.

<sup>57</sup> RS Official Gazette 77/16.

Disabilities. This Law would ensure that all persons with the same degree and type of disability, regardless of its cause, have the same rights and benefits.

## **Participation in political and public life (art. 29)**

### **Reply to paragraph 28 of the list of issues**

110. The BiH Election Law<sup>58</sup> provides that the Central Election Commission determines the form and content, as well as information included in the ballot for all levels of direct elections in BiH. The Law provides that, at the request of voter who is blind, illiterate or physically incapable, the chairperson of the local election commission approves the procedure wherein another person, selected by a voter who is unable to vote, assists the voter in signing the Central Voters Register and voting. The assistant is not necessarily registered as a voter, he/she can help only one voter and cannot be a member of the local election commission or an accredited observer on behalf of a party/independent candidate.

111. The BiH Central Election Commission has never used a special form of the ballot in Braille for blind and visually impaired people. The Commission does not have data on voters who are blind from the Central Voters Register so they cannot print ballots in Braille or take other necessary activities to arrange polling stations in each constituency accordingly or prepare specific electoral materials or hold training for counting of ballots written in Braille.

112. The Rulebook on the Manner of Conducting Election in BiH<sup>59</sup> provides for assistance of another person to the voter who is blind, illiterate or physically incapable and provides for the possibility of voting with assistance of mobile teams.

113. All pre-election motivational and informational clips for voters in an election year on how to register or casts votes are adapted for people with impaired hearing and broadcast in the sign language.

114. The BiH Election Law provides that the Central Voters' Register does not contain the names of BiH citizens who have been deprived of full legal capacity in a binding decision of the relevant authority as these persons have been struck off but they can be re-entered if they restore legal capacity.

## **C. Specific obligations (arts. 31–33)**

### **Statistics and data collection (art. 31)**

#### **Reply to paragraph 29 of the list of issues**

115. In accordance with the recommendations of the Washington Group on Disability Statistics, the 2013 Census of Population, Households and Dwellings collected statistics on the nature, causes and extent of disability. The statistics can be used to study the socio-economic and demographic characteristics of the population with disabilities and comparison with the population without disabilities. In the future it is planned to publish a thematic book entitled "Disability", which will show detailed information collected in the census in this field. In their plans and programmes, statistical institutions in BiH have not envisaged any (regular) activities related to data collection in the field of disability.

<sup>58</sup> BiH Official Gazette 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 18/13, 7/14, 31/16.

<sup>59</sup> BiH Official Gazette 32/16, 43/13.

**Disability by type and sex**

Territory	Sex	Total	Type of disability							With more than one difficulties
			Total with disability	Seeing, even with the use of glasses	Hearing, even with the use of hearing aids	Walking or going upstairs	Remembering or concentrating	Dressing and bathing	Communication (understanding other people)	
Bosnia and Herzegovina	<b>Total</b>	<b>3 531 159</b>	<b>294 058</b>	<b>121 620</b>	<b>70 762</b>	<b>184 430</b>	<b>55 875</b>	<b>39 164</b>	<b>32 002</b>	<b>110 230</b>
	M	1 732 270	132 975	50 613	34 448	77 489	25 058	16 645	15 473	46 379
	F	1 798 889	161 083	71 007	36 314	106 941	30 817	22 519	16 529	63 851
Federation of Bosnia and Herzegovina	<b>Total</b>	<b>2 219 220</b>	<b>181 927</b>	<b>74 413</b>	<b>42 221</b>	<b>114 822</b>	<b>35 601</b>	<b>24 345</b>	<b>20 180</b>	<b>68 156</b>
	M	1 087 993	81 695	30 746	20 243	47 911	16 020	10 317	9 846	28 473
	F	1 131 227	100 232	43 667	21 978	66 911	19 581	14 028	10 334	39 683
Republika Srpska	<b>Total</b>	<b>1 228 423</b>	<b>104 454</b>	<b>43 899</b>	<b>26 595</b>	<b>64 737</b>	<b>18 737</b>	<b>13 803</b>	<b>10 969</b>	<b>39 057</b>
	M	603 027	47 844	18 466	13 247	27 546	8 363	5 901	5 219	16 624
	F	625 396	56 610	25 433	13 348	37 191	10 374	7 902	5 750	22 433
Brčko District of Bosnia and Herzegovina	<b>Total</b>	<b>83 516</b>	<b>7 677</b>	<b>3 308</b>	<b>1 946</b>	<b>4 871</b>	<b>1 537</b>	<b>1 016</b>	<b>853</b>	<b>3 017</b>
	M	41 250	3 436	1 401	958	2 032	675	427	408	1 282
	F	42 266	4 241	1 907	988	2 839	862	589	445	1 735

2013 Census of Population, Households and Dwellings.

## National implementation and monitoring (art. 33)

### Reply to paragraph 30 of the list of issues

116. The Ministry of Human Rights and Refugees has a coordinating role in reporting under the UN Convention on the Rights of Persons with Disabilities

117. At the level of Bosnia and Herzegovina, in accordance with Article 33 of the UN Convention on the Rights of Persons with Disabilities, the BiH Council of Ministers has established the BiH Council for Persons with Disabilities<sup>60</sup> as a permanent, professional, advisory, and inter-sectoral coordinating body of the BiH Council of Ministers. One of responsibilities of this body is *“establishing cooperation with international governmental and non-governmental organizations, participation in the development of action plans and other documents aimed at improving the situation of persons with disabilities and initiating projects supporting all other associations of persons with disabilities and the realization of all other activities to promote and improve the situation of people with disabilities in accordance with the UN Convention on the Rights of Persons with Disabilities and Optional Protocol thereto”*. The Council for Persons with Disabilities consists of 10 members on behalf of non-governmental organizations of persons with disabilities from all over Bosnia and Herzegovina, which represent different categories of persons with disabilities, and they are thus directly involved in monitoring the Convention. The Council is funded from the budget of the Ministry for Human Rights and Refugees.

118. The inter-sectoral body of the RS Government in support for persons with disabilities is a permanent, professional, advisory and inter-sectoral coordinating body of the RS Government, which monitors implementation of the Convention and consists of representatives of all ministries and representatives of organizations of persons with disabilities.

119. From budgetary revenues from games of chance, the RS Ministry of Health and Social Protection has supported programme activities of the Alliances of Disabled Persons who have acquired the status of organization in public interest, as well as project activities of all other organizations of disabled persons, associations of citizens, institutions of social welfare and social and humanitarian organizations.

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<sup>60</sup> BiH Official Gazette 32/16, 43/13.