



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Bosnia and Herzegovina*

I. Introduction

1. The Committee considered the initial report of Bosnia and Herzegovina (CRPD/C/BIH/1) at its 308th and 309th meetings, held on 27 and 28 March 2017, respectively, and adopted the following concluding observations at its 323rd meeting, held on 6 April 2017.
2. The Committee welcomes the initial report of Bosnia and Herzegovina, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for the written replies (CRPD/C/BIH/Q/1/Add.1) to the list of issues prepared by the Committee.
3. The Committee appreciates the constructive dialogue held during the consideration of the report and commends the State party for the strength of its delegation, headed by the Ambassador and Permanent Representative of Bosnia and Herzegovina to the United Nations Office in Geneva.

II. Positive aspects

4. The Committee commends the State party for the adoption of:
 - (a) The Policy on Disability in Bosnia and Herzegovina (PDBH) by the Council of Ministers of Bosnia and Herzegovina on 8 May 2008;
 - (b) The new Strategy to advance the position of persons with disabilities in the federation of Bosnia and Herzegovina for the period 2016-2021.
5. The Committee welcomes:
 - (a) The State party's support to associations of persons with disabilities in 2016 and the intention to increase this support for coming years;
 - (b) The first conference on women with disabilities in Bosnia and Herzegovina (BiH) held on 6 March 2015, and the creation of the Gender Equality Agency of BiH;

* Adopted by the Committee at its seventeenth session (20 March-12 April 2017).

(c) The increase of financial incentives provided for new employment of persons with disabilities between 2011 and 2016 (from 150.000 to 19.245.551 BAM).

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1-4)

6. The Committee is concerned about the lack of transparent procedures and legislation regarding the consultations with organizations of persons with disabilities. It is also concerned about the lack of structured financial support and capacity building to these organisations, particularly at local the level.

7. The Committee recommends that the State party adopt formal and transparent mechanisms for regular consultations with organizations of persons with disabilities, including those representing women and children with disabilities, persons with hearing impairment and the deaf, persons with psychosocial and/or intellectual disabilities in all entities and cantons. The Committee also recommends that the State party provide sufficient and regular financial resources to the organisations of persons with disabilities.

8. The Committee is concerned that there is no human-rights based concept of disability across the entities and cantons of the State party in line with the Convention. It is also concerned at the lack of efforts to revise the existing legislation and bring it in full compliance with the Convention, bearing in mind the provisions of article 4(5) of the Convention.

9. The Committee recommends that the State Party adopt a harmonised human rights-based concept of disability in accordance with the Convention. It also recommends that the State party review its existing and draft legislations in regular consultation with organizations of persons with disabilities.

B. Specific rights (arts. 5-30)

Equality and non-discrimination (art. 5)

10. The Committee is concerned at:

(a) The anti-discrimination legislation not being systematically applied and implemented and at the lack of a clear definition of disability-based discrimination with effective and applicable sanctions in relation to Article 2 of the Law on Prohibition of Discrimination in particular;

(b) Different legal entitlements of persons with disabilities whose impairment is not a consequence of the war in comparison with the civilian victims of war and war veterans with disabilities;

(c) The on-going practice of different assessments of the same disabilities based on the cause and/or origin of disability;

(d) The lack of provisions regarding reasonable accommodation with sanctions;

(e) The insufficient information on combating multiple and intersecting forms of discrimination and on the usage of notions such as “temporary specific measures” or “special needs” that are not clearly regulated, especially in education and in cases of ethnic minorities.

11. **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;**

(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;**

(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;**

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

Women with disabilities (art. 6)

12. The Committee is concerned at the:

(a) Insufficient information on a comprehensive gender equality policy or strategy in relation to the 2013-2017 BiH Gender Action Plan;

(b) Lack of wide-range consultations with and participation of organisations of women with disabilities also at the local level;

(c) Lack of adequate and transparent funding and employment-related measures tailored to the requirements of women with disabilities;

(d) The fact that “there is almost no record of” political participation of women with disabilities.

13. **With reference to its general comment No. 3 (2016) on women and girls with disabilities and in view of targets 5.1, 5.2 and 5.5 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Adopt an effective strategy to ensure that laws provide for the full protection and enjoyment of the rights of women and girls with disabilities in line with the Convention, and incorporate the disability perspective into all gender-equality policies and programmes, including employment related policies and measures;**

(b) **Take appropriate measures to prevent and combat multiple and intersecting forms of discrimination that women and girls with disabilities face, especially in access to justice, protection against violence and abuse, education, health and employment;**

(c) **Ensure the effective participation of women and girls with disabilities, through their representative organisations, in consultations, political participation and in decision-making processes.**

Children with disabilities (art. 7)

14. The Committee is concerned that corporal punishment of children, especially children with disabilities, is not explicitly prohibited in the family, alternative care and day care settings in the State party. It is further concerned that there is no universal and equal access to services of early childhood recognition and intervention for children with disabilities.

15. **The Committee recommends that the State Party:**

- (a) Explicitly and universally prohibit corporal punishment of children, with particular attention for children with disabilities living in institutions;**
- (b) Provide children with disabilities with sufficient early childhood intervention and development services in cooperation with organisations of parents with children with disabilities at the local level.**

Awareness-raising (art. 8)

16. The Committee is concerned at the lack of information on the local and the nation-wide campaigns, awareness-raising programmes and trainings for personnel of public and private media, as well as whether the text of the Convention has been made available in sign languages.

17. **The Committee recommends that the State party translate the Convention into sign languages and organise trainings for public and private media on how persons with disabilities should be portrayed in order to eliminate negative stereotypes and prejudices towards them. The Committee also recommends that the State party take effective and regular steps in raising awareness among members of the parliaments and government officials at national and local level, as well as to update the training curricula of architects on the rights of persons with disabilities.**

Accessibility (art. 9)

18. The Committee is concerned that there is no comprehensive accessibility strategy nor harmonised legislation at all levels with effective sanctions, and that most public buildings, institutions, with special regards to those providing public legal assistance and/or services for persons with disabilities in particular, as well as public transport are reported as inaccessible. It is also concerned that electronic mass media services are not provided in a format accessible to persons with disabilities.

19. **The Committee recommends that the State party:**

- (a) Adopt a comprehensive accessibility strategy and an action plan with sufficient budget, efficient monitoring mechanism and benchmarks for the removal of barriers with enforceable and effective sanctions for non-compliance;**
- (b) Promote universal design for all buildings, public services and public transport;**
- (c) Provide accessible information and social communication media, with special attention to electronic media, in accordance with general comment No. 2 (2014) on accessibility (art. 9);**
- (d) Pay attention to the links between article 9 of the Convention and targets 9, 11.2 and 11.7 of the Sustainable Development Goals.**

Situations of risk and humanitarian emergencies (art. 11)

20. The Committee is concerned about the lack of a comprehensive strategy for protocols to support persons with disabilities in situations of risk and humanitarian emergencies. It is especially concerned about the lack of equal access to information in appropriate format in line with General Comment no. 2 (2014).

21. **The Committee recommends that the State party adopt an effective system in accordance with the Sendai Framework for Disaster Risk Reduction 2015-2030 in order to have an accessible (e.g. hotlines, a text message-warning application, general manuals in sign language and Braille) and comprehensive emergency strategy and protocols for situations of risk, as well as to require all public services to develop plans**

for the evacuation of persons with disabilities in consultations with representative organisations of persons with disabilities, including at local level.

Equal recognition before the law (art. 12)

22. The Committee is concerned about the current guardianship regime which contradicts the Convention and the Committee's general comment No. 1. (2014) on equal recognition before the law. It is concerned about the lack of transparent and effective remedies, particularly regarding the current practice of depriving persons with disabilities of their full legal capacity. The Committee is gravely concerned about the denial of the rights to marry and vote.

23. **Recalling its General comment No. 1 (2014) on equal recognition before the law, the Committee recommends the State party to harmonize its legislation with the Convention, and replacing substituted decision-making with supported decision-making regimes that respect the person's autonomy, will and preferences, and establish transparent remedies for persons with disabilities whose legal capacity have been removed throughout the State party.**

Access to justice (art. 13)

24. The Committee is concerned that there is a lack of information on specific and available measures, as well as transparent protocols to provide procedural and age appropriate accommodation in judicial proceedings, including the notary-related services.

25. **The Committee recommends that the State party ensure a transparent barrier-free and non-discriminatory access to justice based on the free choice and preference of persons with disabilities. It further recommends that the State party strengthen efforts for providing adequate trainings on the right of persons with disabilities for judicial and law enforcement personnel. The Committee also recommends that the State party ensure availability of non-discriminatory access to assistive technologies and ensure registered and qualified sign language interpreters and including provision of Braille and other alternative formats in judicial proceedings.**

Liberty and security of the person (art. 14)

26. The Committee is concerned that the current practice permits the deprivation of liberty of persons with disabilities on the basis of impairment and provides for involuntary hospitalization and forced institutionalization of children and adults with intellectual and/or psychosocial disabilities.

27. **The Committee urges the State party to repeal laws permitting deprivation of liberty based on impairment, forced treatment and the use of restraints and coercive measures based on a medical-based model of disability, as well as to provide effective remedies to persons with disabilities deprived of their liberty on the basis of impairment.**

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

28. The Committee is concerned that despite the ombudsman's recommendations and the establishment of the National Mechanism for Prevention of Torture and other Inhumane or Humiliating Treatment or Punishment of Bosnia and Herzegovina, there is a lack of information about the protocols prohibiting the use of coercive measures, including physical, mechanical and chemical restraints, the excessive antipsychotic therapy and the prolonged isolation of adults and children with psychosocial and/or intellectual disabilities. According to the Committee Against Torture (CAT/C/BIH/CO/2-5, para. 8), the State party

has not provided a comprehensive, systematic as well as harmonised approach to handle the cases of victims of torture and the civilian war victims.

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 further 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, including the consideration of the revision of the current application of burden of proof.

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

30. The Committee is concerned about the lack of data on effective measures to prevent violence against persons with disabilities, especially women with disabilities, and violence against children with disabilities, including sexual violence, in all settings, and the lack of mechanisms for making complaints against perpetrators and legal remedies.

31. The Committee recommends that the State party revise the monitoring and inspection of social care homes and psychiatric institutions to prevent violence against and abuse of persons with disabilities, children with disabilities in particular still living therein. It also recommends that the State party ensure that persons deprived of liberty have access to independent complaints mechanisms and provide appropriate remedy to victims of abuse, such as redress and adequate compensation, including rehabilitation.

Protecting the integrity of the person (art. 17)

32. The Committee is concerned that a legal guardian may authorize medical interventions, , without the free and informed consent of the person with disabilities.

33. The Committee urges the State party to adopt effective measures to ensure respect for the right of free, informed and prior consent of the persons with disabilities to medical treatment and to provide efficient support mechanisms for decision-making in the State party.

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

34. The Committee is concerned that:

(a) Institutional care is still prevailing and there is no comprehensive strategy of deinstitutionalization in the State party;

(b) The number of institutionalized persons with disabilities remains high and that insufficient efforts have been made to provide resources for the development of support services, in particular personal assistance, in local communities for those leaving institutions;

(c) Resources are still invested in renovating or extending institutions, while initiatives of as well as opportunities provided for organisations of persons with disabilities for developing services within the community that enable independent living are not sufficiently supported.

35. The Committee urges the State party to:

(a) Adopt a comprehensive strategy with clear time-bound measures and allocate sufficient funds for effective deinstitutionalization;

(b) Legally ensure that no further investment will be made for new institutions and the staff of current institutions will be provided with the adequate training on the Convention, as well as to update the current curricula of social worker students accordingly;

(c) Facilitate the involvement of organisations of persons with disabilities in the development of independent living strategies and schemes, which provide for accessible community-based services, especially at the local level.

Personal mobility (art. 20)

36. The Committee is concerned that there is a lack of transparent and non-discriminatory system for the provision of assistive devices and aids.

37. **The Committee recommends that the State party improve transparent access to assistive devices and technologies. It recommends that the State party legislate and take any other appropriate measures to ensure a fund for a transparent system of services to support the personal mobility, including the universal access to appropriate orthopaedic, typhlotechnical and other assistive devices as well as appropriate trainings for their usage.**

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

38. The Committee is concerned that there is a lack of data on the existence of a standardized unified Braille code to enhance its usage in education, employment, as well as on available applications of information and communications technology. It is also concerned that there is a lack of data on procedures for the deaf persons to apply for sign language interpretation in public proceedings and in public life events apart from that of justice system and their effective access to electronic media.

39. **The Committee recommends the State party to ensure that public broadcasters and telecom operators provide information in accessible forms, such as Easy Read, close captioning and subtitling for all persons with disabilities and to adopt an effective legislation with the full recognition of sign language(s) and Braille.**

Respect for home and the family (art. 23)

40. The Committee is concerned that women with disabilities, especially those with psychosocial and/or intellectual disabilities, can be separated from their children on the grounds of their disability.

41. **The Committee recommends that the State party provide sufficient resources to support families with children with disabilities to remain together. This includes providing sufficient support to allow children with disabilities to remain in the family, including the promotion of foster family-related services, and support to parents with disabilities to retain full parental responsibility of their children.**

Education (art. 24)

42. The Committee is concerned that:

(a) There is no comprehensive legislation with effective strategy on inclusive education, including preschool service for children with disabilities;

(b) There is a lack of data on measures adopted to provide standardized and regulated transparent protocols relating to individual education plans, as well as relevant technologies and forms of communication ensuring accessibility for pupils and students with disabilities at all levels of education;

(c) There is a lack of comparable data on funding earmarked for children with disabilities in mainstream education, as well as on affirmative measures for the enrolment of and accommodation provided for students with disabilities;

(d) There is only limited accessibility provided in higher education for students with disabilities.

43. Recalling its general comment No. 4 (2016) on the right to inclusive education and the Sustainable Development Goal 4, especially its targets 4.5 and 4.8, the Committee recommends that the State party increase its efforts towards inclusive education, particularly, that it:

(a) Adopt and implement a coherent strategy on inclusive education in the mainstream educational system;

(b) Ensure the accessibility of school environments in line with the Convention, including the provision of reasonable accommodation, accessible and adapted materials and inclusive curricula;

(c) Allocate effective and sufficient financial, material and adequately trained human resources, including persons with disabilities;

(d) Incorporate inclusive education training into university curricula for future teachers and training programmes for current teaching staff with an adequate budget.

Health (art. 25)

44. The Committee is concerned about the limited and unequal access to health services for children with disabilities in the State party. It is also concerned about the unequal access to sexual and reproductive health services and the lack of adequate training of health professionals on the rights of persons with disabilities, as well as the inaccessibility of medical services and health facilities.

45. The Committee recommends that the State party take effective and harmonised measures to provide early intervention services to all children with disabilities and ensure adequate training of health professionals on the rights of persons with disabilities. It also recommends that the State party require providers of health services to offer health services to persons with disabilities on an equal basis with others by providing accessible equipment and instruments required for women with disabilities to access services, including reproductive health services, as close to home as possible.

Work and employment (art. 27)

46. The Committee is concerned about the lack of data on efficient protection of employees with disabilities from dismissal and the insufficient provision of reasonable accommodation. The Committee is also concerned that there is no data on the situation of persons with disabilities in terms of employment in public sector.

47. The Committee recommends that the State party amend its legislations by including the definitions of ‘reasonable accommodation’ and ‘universal design’ in line with the Convention and to provide guidance and training to public and private sectors on these concepts in order to make sure disability cannot constitute an excuse for non-employment if the person with disability in question is qualified for the relevant job and can effectively perform his/her job with reasonable accommodation.

48. The Committee is concerned about the fact that the number of sheltered workshops has doubled since 2009 and that there is a lack of data on measures to effectively motivate

persons with disabilities, including veterans of war with disabilities, and their employers towards their employment in the open labour market.

49. **The Committee recommends that the State party promote among employers the right of persons with disabilities, including veterans of war with disabilities, to employment on an equal basis with others, , and reinforce measures to support the effective transition of all persons with disabilities into formal employment in the open labour market.**

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

50. The Committee is concerned that the available financial support (“benefits”) provided for persons with disabilities is based on discriminatory criteria.

51. **The Committee recommends that the State party revise the provisions of disability allowances by harmonizing laws and regulations at all levels of government in order to repeal the current discriminatory practice based on the cause of impairment, in particular among war-related and non-war related disabilities, or the place of residence.**

Participation in political and public life (art. 29)

52. The Committee is concerned at the exclusion of persons with disabilities from public life, especially women with disabilities, as well as at the lack of legislation on effective and transparent measures for providing accessible voting materials and information.

53. **The Committee recommends that the State party amend the electoral law(s) and the rules of procedure relevant to the Central Election Commission to ensure equality of participation for persons with disabilities in the electoral process, as well as allowing persons deprived of legal capacity to vote, unhindered physical access to voting, secure mechanisms to ensure secrecy of the ballot, and the availability of other electoral materials and information in accessible formats in line with the General comment No. 2 on accessibility.**

Participation in cultural life, recreation, leisure and sport (art. 30)

54. The Committee is concerned that the State party has not yet ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which allows access to published material to blind persons, persons with visual impairments or otherwise printed disabled. The Committee is also concerned that despite the fact that there is adopted strategy for the period 2016-2021 for the promotion of accessibility of educational, cultural and sports facilities, no significant progress can be identified so far.

55. **The Committee encourages the State party to adopt all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible. It also recommends that, in line with paragraph 15 of the General comment no.2 (2014), more attention is paid to educational, cultural and sport facilities in terms of coordination based on the suggested action plan.**

C. Specific obligations (arts. 31-33)

Statistics and data collection (art. 31)

56. The Committee is concerned that data collection on persons with disabilities in the State party is based on the medical approach and that it is fragmented and lacks effective

dissemination. The Committee is also concerned that the State party is not collecting and analysing proper and disaggregated data on the situation of persons with disabilities.

57. **In view of target 17.18 of the Sustainable Development Goals, the Committee recommends that the State party develop systematic data collection and reporting procedures which are in line with the Convention and to collect, analyse and disseminate disaggregated data on the characteristics of its population with disabilities, including sex, age, ethnicity, type of impairment, socioeconomic status, employment, place of residence, as well as on the barriers that persons with disabilities face in society. The Committee also recommends that the State party make sure the use of all derogatory language in reference to persons with disabilities is eliminated.**

National implementation and monitoring (art. 33)

58. The Committee is concerned that there is no explicitly identified coordination mechanism as outlined in article 33 (1). In addition, the national human rights institution does not act as an independent mechanism as outlined in article 33 (2).

59. **Taking into account the Guidelines on independent monitoring frameworks and the participation in the work of the Committee (2016), the Committee recommends that the State party nominate focal points on the implementation of the Convention at all levels of government and an independent monitoring framework tasked with monitoring the implementation of the Convention.**

Follow-up and dissemination

60. The Committee requests that the State party, within 12 months and in accordance with article 35, paragraph 2, of the Convention, provide information on the measures taken to implement the Committee's recommendations as set forth in paragraph (11, and 29) above.

61. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in relevant ministries, local authorities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the media, using modern social communication strategies,

62. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its periodic report.

63. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats including Easy Read, and to make them available on the government website on human rights.

Next report

64. The Committee requests the State party to submit its combined second and third periodic reports by no later than 12 April 2020 and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one

year prior to the due date set for the report/combined reports of a State party. The replies of a State party to such a list of issues constitute its report.
