

International Disability Alliance (IDA)

Member Organisations:

Disabled Peoples' International, Down Syndrome International, Inclusion International,
International Federation of Hard of Hearing People,
World Blind Union, World Federation of the Deaf,
World Federation of the DeafBlind,
World Network of Users and Survivors of Psychiatry,
Arab Organization of Disabled People, European Disability Forum,
Red Latinoamericana de Organizaciones no Gubernamentales de Personas con
Discapacidad y sus familias (RIADIS), Pacific Disability Forum

**Suggestions for disability-relevant questions to be included in the
List of Issues for Country report task force
Human Rights Committee, 104th Session**

The International Disability Alliance (IDA) has prepared the following suggestions for the list of issues, based on references to persons with disabilities to be found in the State reports submitted to the Human Rights Committee.

BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 12 March 2010.

[State report](#)

Selected disability references in the state report

Recommendation No. 15

98. In the reporting period, i.e. from 2004 to 2010, amendments to the legislation which has improved the position of the victims of torture and civilian war victims, and persons with disabilities in general have been adopted. This particularly applies to camp detainees and victims of sexual abuse and rape. However, the existing legal framework has significantly extended discrimination among people who have already achieved the status of disabled persons, particularly, between disabled war veterans, civilian victims of war, disabled civilians and disabled workers, whereby the latter are placed in the worst position. An analysis of the situation, as a whole, shows that the entitlements granted on the basis of employment (to pensioners, disabled workers, etc.), pursuant to pension and disability schemes are lower than the entitlements granted on the basis of social welfare schemes (disabled war veterans, civilian victims of war, disabled civilians) in FBH.

105. Besides the adoption of the base for benefits paid to civilian victims of war in the amount equivalent to 70 per cent of the base paid to disabled war veterans, the Law on Amendments to the Law stipulates that the entitlements of civilian victims of war should be exercised in a manner and procedure provided for by law. Therefore, any application for entitlement is decided by the centre for social work as a body of first instance, while a review of the decision, i.e. the appellate proceedings, and payments to beneficiaries are conducted by the cantonal ministries responsible for social policy.

106. The exercise of entitlements is funded from the Federation budget and the cantonal budget in the amount of 50 per cent and 20 per cent respectively, of the base of disabled war veterans' benefits of the same category.

108. According to the records of the Federal Ministry of Labour and Social Policy in the FBH, 8,288 civilian victims of war were recorded in late 2005. During the implementation of the Law in 2009, 10,943 beneficiaries were recorded who received payments as follows: 4,512 received personal disability allowance; 5,709 received family disability allowance. Also, 612 individuals received a single allowance per month, which is a personal cash benefit, as a victim of sexual abuse and rape.

Legal status of victims of torture, camp detainees, victims of sexual abuse and rape

109. Article 54 (1) of the Law on Basic Social Protection, Protection of Civilian Victims of War and Families with Children provides for the status of civilian victim of war to be granted to a camp detainee, if the person has "sustained a bodily impairment of at least 60% or significant deterioration in health due to torture, inhuman and degrading treatment, unlawful punishment, unlawful detention, imprisonment, concentration camp, internment, forced labour during the war or imminent threat of war." The base for determining benefits to be paid to civilian victims of war is 70 per cent of the monthly amount of personal disability allowance paid to disabled war veterans; in 2008 this amounted to BAM 563.95.

110. Article 54 (3) defines the status of civilian victims of war by the following wording: "a special group within the group of civilian victims of war are persons who were victims to sexual assault and rape." Article 59 (2) provides for a monthly personal cash benefit for persons under Article 54 (3) of this law, amounting to 70 per cent of the base that is applied to disabled war veterans' entitlements (BAM 563.95), as a single cash benefit in 2008.

116. There are reports that due to the situation of lack of protection of data, a certain number of raped and abused women and men hide behind the entitlement to personal disability allowance granted to the first group of civilian victims of war, with 100 per cent impairment. However, it still remains the problem of non-compliance with Article 18 of the Law on Gender Equality of the BiH (BiH Official Gazette No. 16/03), because there is no classification of statistical data by gender in the legislation governing the matter of persons disabled in peacetime and civilian victims of war.

117. The current database of civilian victims of war and their families in the FBH still lacks the possibility for collecting, recording and processing of beneficiaries by sex, age, ethnic, territorial and other statutory criteria for monitoring and reporting.

121. In addition, the persons whose disabilities are found to be a result of imprisonment in a camp were granted the entitlements under the legislation regulating entitlements of war veterans, disabled war veterans and civilian victims of war, while the status of civilian victim of war and the entitlements it carries should be granted to other persons presenting evidence under Article 54 of the Law, but they cannot get financial benefits.

122. It should be noted that the adopted amendments to the Laws on Social Protection in the Federation have further increased discrimination against persons with congenital and acquired disabilities in favour of persons with disabilities as a result of war (disabled war veterans, civilian victims of war, camp detainees, etc.).

125. In the Republika Srpska, there is no specific Law regulating the status of victims of torture as a specific group. However, this group of persons may, under certain conditions, achieve the status and entitlements under the Law on the Protection of War Veterans, People with Disabilities and Civilian Victims of War. Depending on whether a person died as a soldier or a civilian, his/her entitlements may be exercised in accordance with the valid legislation of the Republika Srpska, namely the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska (RS Official Gazette No. 55/07 – consolidated text, 59/08 and 118/09) and Law on the Protection of Civilian Victims of War (RS Official Gazette No. 24/10). This group of persons is specified by law as equal to the other groups of persons in terms of achieving the status and entitlements.

127. Specific conditions for obtaining the status of disabled war veteran under the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska are bodily impairment of at least 20 per cent caused by wounds or injuries, determined by a medical board on the basis of medical records about treatment that cannot be older than one year after the termination of military service, or bodily impairment of at least 40 per cent caused by disease, determined by a medical board on the basis of medical records that can not be older than one year after discharge from the armed forces or cessation of the captivity.

129. The most important entitlements under the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska are granted to disabled war veterans (regardless of the circumstances when disability occurred):

- Monthly allowance (for personal disability, supplemental financial assistance, care and support, orthopaedic)
- Health care (medical costs fully covered)
- Orthopaedic aids (in accordance with health care legislation)
- Spa rehabilitation in special rehabilitation program approved by the Government
- Priority in housing allocation (disabled war veterans in I to IV groups)

Family members of killed, missing or deceased combatants receive:

- Family disability allowance
- Health care (medical costs fully covered)
- Refund of funeral costs of exhumed combatant
- Spa rehabilitation in special rehabilitation program approved by the Government
- Priority in housing allocation
- Refund of costs of building tombstone
- Allowance to family of a combatant who was awarded a medal

Entitlement to protection under the Law on the Protection of Civilian Victims of War:

- Civilian disability or family disability allowance
- Allowance for care and assistance of another person (the first group is the only group having this entitlement)
- Allowance for family members incapable of work

- Additional financial assistance
- Allowance for a single parent
- Health care
- Professional rehabilitation

Assessment of military/civilian disability based on mental illness

130. In determining the status of disabled war veteran and the status of civil victim of war, PTSD is taken into account under certain circumstances. Assessment of military/civilian disability is based on the Rulebook on Determining the Military Disability Rating (RS Official Gazette No. 31/10).

131. Cash benefits under the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the RS, and the Law on Protection of Civilian Victims of War.

132. According to the Law on the Entitlements of War Veterans, Militaries with Disabilities and Families of Soldiers Fallen in the Fatherland War of the Republika Srpska, the base for the calculation of monthly benefits is established by law at BAM 500.00. This base has been used for calculations since 1 May 2008.

Data on civilian victims of war in Bosnia and Herzegovina

<i>Federation of BiH</i>	<i>Number</i>
Families of people killed	5 790
Persons with disabilities (from 60% to 100%)	5 153
Total	10 943 civilian victims of war
<i>Republika Srpska</i>	
Civilian personal disability allowance Group I	87
Civilian personal disability allowance Group II	131
Civilian personal disability allowance Group III	83
Civilian personal disability allowance Group IV	219
Civilian personal disability allowance Group V	423
Civilian personal disability allowance Group VI	822
Family disability allowance of killed civilian victims of war	1 770
Family disability allowance of deceased civilian victims of war	290
Total	3 825
<i>Brčko District</i>	
Beneficiaries of family disability allowance	160
Total	160
Grand Total	14 928

Source: Federal Ministry of Labour and Social Policy and the Ministry of Labour and Protection of War Veterans and People with Disabilities, Republika Srpska.

178. Having made commitments in accordance with the decision of the European Court of Human Rights, the Ministry of Justice facilitated the Memorandum of Understanding on Legal Assistance and Official Cooperation in the field of enforcement of security measures, imposed in criminal proceedings between BiH, FBH, RS and Brčko District (BiH Official Gazette No. 44/06). The Council of Ministers adopted a decision on accepting this

Memorandum, which provided for the establishment of the Steering Committee for the Rehabilitation of Psychiatric Hospital in Sokolac, which will be the institution to carry out the security measures/orders imposed by any court in BiH. It also adopted the decision on the Establishment of the Implementation Unit for this project, the decision on the appointment of the Coordinator of Project Implementation, and the decision to ensure the funds for the project implementation (BiH Official Gazette Nos. 55/06 and 72/06). All administrative procedures have been completed for the implementation of the Psychiatric Hospital of the Sokolac Rehabilitation project and all conditions have been met for the execution of the contract to rehabilitate the psychiatric hospital, which will also meet all European standards.

191. Unlike the Federation of BiH, the Republika Srpska has no major problems executing security measures for mandatory psychiatric treatment and compulsory treatment of addiction. A sentenced person, on whom the verdict handed down one of these two security measures/orders, is sent by the courts to the so called Forensic Ward of the Psychiatric Hospital of Sokolac and at the end of treatment, the convicted person is sent to serve his prison sentence. Fully aware of the fact that the conditions for the execution of security measures and hospital treatment of convicted persons with mental disabilities are far from the prescribed standards (to which we were warned through Reports of CPT), the Government of the Republika Srpska adopted the Decision on the Establishment of the Special Hospital for Forensic Psychiatry in Sokolac. By signing the contract between the Entity Ministries of Justice and the Special Hospital in Sokolac, the conditions for donor funds were created and work on adaptation and rehabilitation of the existing building in Sokolac started.

200. In this regard, the following recommendations and measures were adopted that will be implemented as a matter of priority:

- In accordance with the actual and expressed needs of current occupants of collective centres, develop programs and projects that will aim at full dissolution of this kind of housing. Special attention must be paid to particularly vulnerable categories such as orphans, single mothers, the elderly, sick and disabled persons, to ensure adequate exercise of their rights

IDA proposed questions for the List of Issues :

- What steps are being taken to promote the positive image of children and adults with disabilities amongst government personnel, the public and families?
- What measures are in place to collect data and statistics on persons with disabilities for more effective and targeted policymaking?
- In the context of combating domestic violence, what steps have been taken to address the heightened risk for girls and women with disabilities of becoming victims of domestic violence and abuse? What measures are being adopted to ensure that both services (including shelters) and information for victims are made accessible to women and girls with disabilities?
- What steps are being taken to eliminate the institutionalisation of children and adults with disabilities by building up community based services and support (including through

increased social assistance and welfare benefits) to children with disabilities and to their families, including foster families ?

- What measures are being adopted to ensure that all health care and services, provided to persons with disabilities, including all mental health care and services, are based on the free and informed consent of the person concerned (and cannot be substituted by third party decision-makers such as family members or guardians)?
- What measures are being taken to eliminate the use of coercion and restraint, including chemical restraint, in psychiatric facilities and other institutions? How is a trauma-informed approach* to care informing policies and practices in these institutions?
- What laws and policies are in place to ensure that persons with disabilities enjoy legal capacity on an equal basis with others in accordance with Article 16 ICCPR and as elaborated in Article 12 CRPD?
- What steps are being taken to introduce the recognition of sign language as an official language in accordance with Article 27, ICCPR and Article 21, CRPD? What measures are being adopted to ensure access to information to persons with disabilities on an equal basis with others?

* **Trauma-informed approach:** A trauma-informed approach is based on the recognition that many behaviors and responses (often seen as symptoms) expressed by people with psychosocial disabilities are directly related to traumatic experiences that often cause mental health, substance abuse, and physical concerns. For many people with psychosocial disabilities, systems of care perpetuate traumatic experiences through invasive, coercive, or forced treatment that causes or exacerbates feelings of threat, a lack of safety, violation, shame, and powerlessness. Unlike traditional mental health services, trauma-informed care recognizes trauma as a central issue. Incorporating trauma-informed values and services is key to improving program efficacy and supporting the healing process.

ANNEX- Disability references in Concluding Observations with respect to Bosnia and Herzegovina

Concluding Observations of the CAT Committee, 45th session, 2010. [CAT/C/BIH/CO/2-5](#)

Psychiatric facilities

20. While noting the progress made in psychiatric facilities, including Sokolac Psychiatric Clinic, the Committee remains concerned at issues **of institutional accommodation of mentally disabled persons**, in particular with regard to institutions overcrowding and lack of adequate psycho-social support by competent organs (art. 16).

The Committee recommends that the State party ensure that adequate psycho-social support by multi-disciplinary teams is provided for **patients in psychiatric institutions**, that **all places where mental-health patients are held for involuntary treatment** are regularly visited by independent monitoring bodies to guarantee the proper implementation of the existing safeguards, and that alternative forms of treatment are developed. Furthermore, the State party should ensure the fully and timely implementation of the recommendations made by the Ombudsman, as contained in its special report on the situation in the institutions for accommodation of **mentally disabled persons**.

Training

22. While welcoming the detailed information provided by the State party on training programmes for law enforcement officials and the judiciary, the Committee remains concerned at the lack of standardized capacity at the state level for training of all public officer and at the insufficient information on monitoring and evaluation of the effectiveness of these programmes in preventing and detecting torture and ill-treatment (arts.10 and 16).

The Committee recommends that the State party:

- a) Ensure that trainings on the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) are provided to medical personnel and others involved in persons deprived of liberty on a regular and systematic basis and that it is translated into all appropriate languages and applied as widely as possible;
- b) Develop and implement a methodology to assess the effectiveness and impact of such educational and training programmes on the reduction of cases of torture and ill-treatment and regularly evaluate the training provided to its law enforcement officials;
- c) Strengthen its efforts to implement a gender sensitive approach for the training of those involved in the custody, interrogation or treatment of women subjected to any form of arrest, detention or imprisonment; and
- d) Strengthen professional training in both social-protection institutions for **persons with mental disability** and in psychiatric clinics.