

IDA CRPD FORUM

STEERING COMMITTEE

Disabled Peoples' International, Inclusion International,
International Federation of Hard of Hearing People,
Rehabilitation International, 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,
Asia Pacific Disability Forum, Red Latinoamericana de Organizaciones no
Gubernamentales de Personas con Discapacidad y sus familias (RIADIS), Secretariat
of the Africa Decade of Persons with Disabilities,
Handicap International, Survivor Corps

Suggestions for disability-relevant questions to be included in the list of issues
Human Rights Committee Task Force, 8-26 March 2010

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 report submitted by Serbia to the Human Rights Committee.

SERBIA

(Has ratified the CRPD in July 2009)

State Report

Medical and psychiatric care

148. Law on Extrajudicial Proceedings stipulates under Article 45 procedures for accommodation and detaining of a **mentally ill person** in an adequate healthcare organization, when it is necessary due to nature of illness to restrict freedom of movement and communication with the outside world. In such cases urgent mandatory procedure is applied.

149. Pursuant to Article 46 of the Law on Extrajudicial Proceedings, when a healthcare organization receives for medical treatment a person without his/her consent or court ruling, the healthcare organization must report this within three days to the court within whose territorial jurisdiction it is found. Healthcare organization must act in the aforementioned way also in the case when the person received voluntarily in the healthcare organization revokes his/her consent, while the authorized person or authority of this healthcare organization believes that further detention of this person is necessary.

150. Pursuant to Article 50 of the Law on Extrajudicial Proceedings, the court must make within 15 days, i.e. within a maximum 30-day time limit from the date of the report, i.e. from the date when detention has been brought to the court's knowledge, a decision on further detention of this person or his/her release. Pursuant to Article 51 of the same law, when the court decides on further detention of the received person in the healthcare organization, the court shall determine period of detention, which cannot be longer than one year. Healthcare organization must submit to the court periodical reports on health status of the detainee.

151. Pursuant to Article 53 of the Law on Extrajudicial Proceedings, if a healthcare organization assesses that a detainee should stay for further treatment upon expiry of the time limit specified in the court's decision, the healthcare organization is obliged to propose to the court extension of the detention period 30 days before the expiry of the detention period.

152. Pursuant to paragraphs 1, 2 and 3 of Article 80 of the Criminal Code, where grounds under this Code exist, the court may impose one or more security measures on an offender. Compulsory psychiatric treatment and confinement in a medical institution and compulsory psychiatric treatment at liberty shall be imposed as an individual sanction on a mentally incompetent criminal offender. In addition to these measures, ban on practising certain profession, activity or duty, ban on driving a motor vehicle and confiscation of objects may also be ordered. These measures may be ordered to an offender whose mental capacity is substantially impaired, if under pronouncement of a penalty or suspended sentence.

153. Pursuant to paragraph 1 of Article 81 of the Criminal Code, the court shall order compulsory psychiatric treatment and confinement in a medical institution to an offender who committed a criminal offence in a state of substantially impaired mental capacity if, due to the committed offence and the state of mental disturbance, it determines that there is a risk that the offender may commit a more serious criminal offence and that in order to eliminate this risk they require medical treatment in such institution.

154. The new Criminal Procedure Code envisages possible accommodation of the defendant in a healthcare institution. Pursuant to paragraphs 1 and 2 of Article 142, in case of suspicion that the mental competence of the defendant has been lost or diminished, the expert analysis of the defendant's mental state shall be ordered. If the expert witness believes that longer observation is necessary, the defendant shall be sent to an appropriate health care institution for observation. The relevant decision is made by the Investigative Judge, Individual Judge or the Trial Chamber. The observation may be extended and last for more than two months only upon a substantiated proposal of the manager of the health care institution, after the receipt of the expert witness's opinion, but it may not last longer than six months under any circumstances.

492. In accordance with Article 18 of the Labour Law, both direct and indirect discriminations are prohibited against persons seeking employment and employees in respect to their sex, origin, language, race, colour of skin, age, pregnancy, health status or **disability**, nationality, religion, marital status, familial commitments, sexual orientation, political or other belief, social background, financial status, membership in political organizations, trade unions or any other personal quality. Under Article 20, discrimination is prohibited in relation to: employment conditions and selection of candidates for a certain job; working conditions and all rights resulting from the labour relationship; education, training and advanced training; promotion at work; and, termination of the labour contract. Provisions of the labour contract establishing discrimination on some of the specified grounds shall be null and void.

497. **Law on Prevention of Discrimination against Persons with Disabilities** under Article 1, prescribes for the general regime of prohibition of discrimination on basis of **disability**; particular cases of forbidden **discrimination against persons with disabilities**; procedures for protection of persons who had been victims of discrimination; and, measures that State and local authorities take in order to promote and encourage equality and social inclusion of **persons with disabilities**.

Suggestions for list of issues

- Has the country taken any steps toward repealing Articles 45, 46, 50, 51 and 53 of the Law on Extrajudicial Proceedings, which authorize deprivation of liberty based on disability, so as to comply with their obligations under the CRPD which reaffirm that the obligations of the ICCPR fully apply also to persons with disabilities?
- Has the country taken any steps toward repealing paragraphs 1, 2 and 3 of Article 80 of the Criminal Code, paragraph 1 of Article 81 of the Criminal Code, and paragraph 142 of the Criminal Procedure Code, which authorize deprivation of liberty, compulsory treatment and other sanctions based on disability, so as to comply with their obligations under the CRPD which reaffirm the obligations already established in the ICCPR?
- Please describe the effectiveness of the measures taken by Serbia to eliminate discrimination on grounds of disability in access to employment.
- Does Serbia intend to revise its Law on Prevention of Discrimination against Persons with Disabilities following ratification of the CRPD?