

International Disability Alliance (IDA)

Member Organizations:

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

IDA recommendations for Concluding Observations, CRC 61st Session

The International Disability Alliance (IDA) has prepared the following recommendations, based on references to persons with disabilities to be found in the State report, in the list of issues submitted to the Committee on the Rights of the Child and on concluding observations by other treaty bodies (see Annex).

BOSNIA AND HERZEGOVINA

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

IDA suggested recommendations for Concluding Observations :

- Review laws and policies with respect to children with disabilities to eliminate the medical model of disability and to promote the social and human rights based approach which acknowledges that the disabling factors reside in the environmental and attitudinal barriers created by society, and that all children and adults with disabilities are subjects of their own rights.
- Collect adequate data on children and adults with disabilities, including women and girls with disabilities, and use disaggregated data and results of studies to develop policies and programmes to promote equal opportunities for them in society.
- Take measures to address disability-based discrimination and hate violence against children with disabilities.
- Introduce measures in compliance with Article 12 CRC to ensure that children and young people in mental health settings have the right and opportunity to freely express their views on matters of treatment, services and support, and for their views to be given due weight in accordance with the age and maturity of the child, without any discrimination based on disability, and that they have access to age- and disability-appropriate support to exercise these rights.
- Address the heightened risk for children with disabilities, in particular girls and newborn children with disabilities, of becoming victims of murder, violence, abuse, and other harmful practices and adopt sanctions for perpetrators and urgent measures to ensure that both services and information for victims are made accessible to children with disabilities living in institutions and the community.

- Provide sufficient funds to social services to ensure the protection of children and to improve the status of families with children with disabilities. (in State report para 72). Provide sufficient support to families to ensure that all children, including children with disabilities, can live and be raised in family environments in the community, and to eliminate the institutionalisation of children 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.
- Devise a general plan for the deinstitutionalisation of children with disabilities and the development of community based services in close consultation with organisations of persons with disabilities.
- Include inclusive education as an integral part of core teacher training curricula in universities to ensure that the values and principles of inclusive education are infused at the outset of teacher training and teaching careers of *all* teachers. Make available support in classrooms, and the accessibility of educational materials, curricula, and school environments. Ensure the law provides enforceable remedies to children with disabilities and their families who have been refused access to inclusive education, or who have been denied the provision of reasonable accommodation with respect to education.
- Adopt measures to ensure that all education, information, healthcare and services relating to sexual and reproductive health, HIV and STIs, are made accessible to children and adolescents with disabilities in age-appropriate formats.

State report

Selected references to children with disabilities in the state report:

11. Seven specialised departments have been established:
 - Department for monitoring the rights of children
 - Department for monitoring the rights of disabled people
 - Department for monitoring the rights of national, religious and other minorities
 - Department for economic, social and cultural rights
 - Department for political and civil rights
 - Department for elimination of all forms of discrimination
 - Department for monitoring the rights of detainees/prisoners
72. The most vulnerable category are children of displaced persons, refugees, minorities, foreign nationals and asylum seekers and children with disabilities. The Programme of Social Inclusion of Children that is being implemented in Bosnia and Herzegovina and the Programme of Social Inclusion of Population Program both establish special objectives and measures to improve the protection of rights of all these categories of children. Difficulties in providing appropriate protection of these children's rights are a result of the global crisis and a lack of funds available to social services which have a prime task of ensuring the protection of children and/or improving the status of families with children. Children in Bosnia and Herzegovina do not always enjoy equal protection, as some areas allocate greater funds for their protection and there are areas that do not have appropriate resources, so we are mainly focusing our activities on harmonization efforts in order to ensure equal exercise and protection of rights of children in BiH.

Child disability

230. Overall, 3 per cent of children aged 2 through 9 years have difficulties with speech. Overall, 9 per cent of children of the same age cannot name a single object.

Children with disabilities (art. 23)

242. The Law on Amendments to the Law on the Basis of Social Care, the Protection of Civilian war victims and Families with Children (Official Gazette of the Federation of BiH, 54/04) establishes the fundamental rights of persons with innate or acquired disabilities that as a consequence resulted in at least 60% of damages to the organism. These rights are the following: personal disability benefit, allowance for the care and assistance of a third person and orthopaedic allowance. The Law allows for the exercise of these rights for the first time, i.e. it deals with the rights that these persons could not exercise before the enactment of this Law. Funds for exercise of fundamental rights of persons with disabilities referred to in this Law are provided in the Budget of the Federation of Bosnia and Herzegovina, which secures equality of all persons to exercise their right, regardless of their place of residence.

243. A Decision of Brčko District Mayor No: 01-014-003478/05 of April 27, 2007 on identifying and assessing abilities, classification and registration of children and youth with special needs defines a manner of identification, procedure for assessing abilities, classification and record keeping on children with special needs, as well as a type and level of disability in physical or psychological development of children. Institutions in the Brčko District area that provide health services, educational services, Health Department and other services such as Sub-Department for Social Welfare identify children with special needs.

244. Persons with special needs in terms of this Decision are the following persons:

- (a) With sight impediment;
- (b) With hearing impediment;
- (c) With speech and vocal impediment;
- (d) With physical disability;
- (e) With insufficient mental development (slight, moderate, serious and severe degree);
- (f) With combined impediments/disabilities.

245. The assessment of abilities and classification of persons with special needs is performed by a professional commission. The Commission gives its findings on the abilities and an opinion on relevant protection measures for the persons with special needs. The Sub-Department for Social Welfare issues a decision on ability and sends a person with special needs to an education department and relevant educational institution, i.e. relevant social care institution for the purposes of ensuring special protection, upbringing, education and training for a job and living in general. If the assessment and classification procedure establishes that the person with special needs has damages in terms of his/her physical or psychological development but not in the extent used for classification under the provisions of this Decree, the Professional Commission gives a recommendation on the need to administer medical treatment, correct the damage and apply the relevant procedure.

246. The data from MICS research give indirect information on children with disabilities. Mothers/guardians of children in the 2–9 age group were asked to provide answers to a number of questions to establish the number of disabilities/faults such as sight impediment, hearing impediment and speech impediment. Total of 3% of children from the 2–9 age group

have speech disorders. Total of 9% of children of this group is unable to name any item (Source: MICS 2006).

251. The Law on Allocation of Public Revenues in the Federation and Financing of the Federation of Bosnia and Herzegovina defines distribution of public revenues between the Federation of Bosnia and Herzegovina and Cantons. A significant portion of funds is being yielded to Cantons. Cantons define, by their regulations, a type and level of revenues that they yield to the municipalities. Accordingly, social welfare funds and funds for the protection of families with children originate from Cantonal budgets and amendments to the Federation Law define that the basic rights of persons with disabilities and civilian war victims have to be exercised and funds provided at the Federation level – this is done in full for persons with disabilities (non-war disabilities), while civilian war victims exercise their rights partially from the Federation Budget and partially from the Cantonal Budget under the principle of divided responsibility.

255. Things are additionally complicated by a lack of updated and complete information on social care beneficiaries. The establishment of a data base of social care beneficiaries in the Federation of Bosnia and Herzegovina within a Social Sector Technical Assistance Credit has been finished and it is now functional, covering persons with disabilities only; the social care centres data base became operational on January 1, 2006. With regard to this, it would be necessary to take activities on amendments and changes to the application, that is, improvement of the database for other social care beneficiaries in line with the Law on the Basis of Social Care, the Protection of Civilian war victims and Families with Children.

305. The Action Plan on Educational Needs of Roma includes promotion of systematic changes which would ensure recognition of Roma educational needs: removal of financial and administrative barriers for enrolment and completion of school, preservation of Roma language and culture, achieving support and participation of Roma children, parents and community in education of their children. Children with disabilities are included in primary education through regular classes (inclusion), and teachers work with these students in accordance with special and individually tailored programs.

314. Protection of civilian victims of war is regulated by the Law on the Basis of Social Protection, Protection of Civilian war victims and Families with Children. According to this Law, civilian war victim is a person who has suffered physical damage of at least 60% due to wounds or injuries, as well as the person who was killed, died or disappeared due to the effects of war. The right to a personal compensation can be exercised by persons with disability from 60% to 100% and depending on a degree of disability, categories I to IV can exercise the right to home care and orthopaedic benefit, while the right to family pension can be exercised by members of immediate family of a civilian war victim who was killed or died as a result of injuries, or a missing person. The compensation under this Act is payable in the total of 70% of the monthly amount of war veteran's personal pension, 50% from federal budget and 20% from cantonal budget – from appropriate groups, according to regulations of the Law on the Rights of War Veterans and Their Families.

[List of Issues](#)

4. Please provide data on the following, and disaggregated by age, sex, ethnic origin and socio-economic status:

- (a) Cases of violence in the family and the issuance of protective measures in the context of domestic violence;
- (b) The number of children receiving different types of alternative care in residential settings and specify the type of care being provided;
- (c) Cases of malnutrition and stunting;
- (d) The percentage of children with disabilities attending integrated or inclusive education

5. Please provide detailed information on specific measures, if any, taken by the State party to prevent and eliminate discrimination against:

- (a) Children of ethnic minorities;
- (b) Children in a street situation;
- (c) Children with disabilities.

10. Please provide updated and detailed information on the State party's programmes and policy initiatives for specifically addressing the needs of children with disabilities, particularly with regard to access to healthcare and education.

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

Concluding Observations of the CAT Committee, [CAT/C/BIH/CO/2-5](#), 2011

The State party should intensify its efforts to bring the conditions of detention in places of deprivation of liberty into line with the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663 C (XXIV) and 2076 (LXII)) and other relevant international and national law standards, in particular by:

(g) Providing adequate accommodation and psychosocial support care for detainees who require psychiatric supervision and treatment.

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 overcrowding in institutions and lack of adequate psychosocial support by competent organs (art. 16).

The Committee recommends that the State party ensure that adequate psychosocial support by multidisciplinary 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 full and timely implementation of the recommendations made by the Ombudsmen, as contained in their special report on the situation in institutions for accommodation of mentally disabled persons.

The Committee recommends that the State party:

(d) Strengthen professional training in social-protection institutions for persons with mental disability and in psychiatric clinics.

Concluding Observations of the CRC Committee, [CRC/C/OPAC/BIH/CO/1](#), 2010

Measures adopted to protect the rights of child victims

17 While noting the draft law on the rights of victims of torture and civil victims of war, the Committee is concerned that civilian victims, including children, may be discriminated in relation to personal disability benefits compared to disabled war veterans under the State party's current legislation on the regulation of social benefits.

18. The Committee recommends that the State party adopt the Law on the Rights of Victims of Torture and Civil Victims of War without delay and that it ensures that child victims of armed conflict or its consequences are not discriminated against, including in the distribution of personal disability benefits in order to ensure their full physical and psychological recovery and their social reintegration.

20. The Committee recommends that the State party:

(a) Continue and strengthen mine-awareness campaigns and demining activities, in particular by strengthening funding for demining activities undertaken by the armed forces of Bosnia and Herzegovina;

(b) Consider establishing special rehabilitation programmes for children affected by the explosion of mines and other consequences of the armed conflict and ensure that all affected children have access to such programmes, including through increased allocation of resources to centres for social work and by increasing the coverage of the system of personal disability benefits;

(c) Establish procedures for the adequate identification and referral for appropriate assistance of all children who have been involved in armed conflict, in accordance with article 6, paragraph 3 of the Optional Protocol.

Concluding Observations of the CRC Committee, [CRC/C/OPSC/BIH/CO/1](#), 2010

5. In addition, the Committee welcomes the accession to or ratification of the following international or regional instruments:

(a) The International Convention on the Rights of Persons with Disabilities and its Optional Protocol on 12 March 2010;

Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2), Measures adopted to prevent offences prohibited under the Optional Protocol

24. While appreciating the adoption of various plans and strategies to enhance social inclusion of children, especially Roma children, the Committee regrets that Roma children, children in street situations, children with disabilities, children involved in organized begging, and children lacking birth registration remain vulnerable to offences under the Optional Protocol.

25. The Committee encourages the State party to strengthen systematic prevention measures, targeting children who are especially vulnerable or at risk, in order to protect them from the offences under the Optional Protocol. In addition, the Committee recommends that the State party harmonize State and Entities legislation pertaining to civil registration and take immediate and effective measures to ensure the registration of all children at birth.

Concluding Observations of the Human Rights Committee, [CCPR/C/BIH/CO/1](#), 2006

C. Principal subjects of concern and recommendations

15. The Committee notes with concern that, under the Federation Law on Basics of Social Care, Protection of Civil Victims of War and Protection of Families with Children, torture victims, with the exception of victims of rape and sexual violence, must prove at least 60 per cent of bodily harm in order to be recognized as civilian victims of war, and that this requirement may exclude victims of mental torture from personal disability benefits. The Committee is also concerned that personal disability benefits received by civilian victims of war are significantly lower than those received by war veterans in both Entities. (arts. 2, 7 and 26)

The State party should ensure that victims of mental torture are granted victim of war status in both Entities and that the personal disability benefits received by civilian victims of war are harmonized among the Entities and cantons and adjusted to the personal disability benefits received by war veterans. The State party should include in its next periodic report updated statistical information on the number of victims of mental torture and/or sexual violence receiving disability benefits, disaggregated by sex, age, ethnic group and place of residence, as well as on the amount of such benefits.

19. The Committee is concerned about the poor conditions of detention in Entity police establishments and prisons which are frequently overcrowded, understaffed, insufficiently equipped, and offer inadequate out-of-cell activities and exercise. It is also concerned about poor material and hygienic conditions, lack of qualified staff and inadequate, pharmacotherapy-based treatment of mental health patients and inmates, in particular at Zenica Prison Forensic Psychiatric Annex and also at Sokolac Psychiatric Hospital. (arts. 7 and 10)

The State party should improve the material and hygienic conditions in detention facilities, prisons and mental health institutions in both Entities and ensure sufficient staffing levels, as well as regular exercise and out-of-cell activities for inmates, and adequate treatment of mental health patients. It should transfer all patients from Zenica Prison Forensic Psychiatric Annex and, to that end, ensure that Sokolac Psychiatric Hospital meets international standards.

Concluding Observations of the CESCR Committee, [E/C.12/BIH/CO/1](#), 2006

D. Principal subjects of concern

14. The Committee is deeply concerned about the high unemployment rate, in particular among youth, women, especially female heads of households, and disadvantaged and marginalized groups such as persons with disabilities, the Roma people and members of other ethnic minorities. The Committee is also concerned that more than one third of the workforce is employed in the informal sector in the State party.

17. The Committee is deeply concerned about the lack of funding and of qualified personnel at the social welfare centres which are responsible for the social protection of, inter alia, children without parental care, female heads of households, persons with disabilities, and victims of trafficking in persons, especially women and children.

23. The Committee is deeply concerned about the extent of poverty in the State party, especially in rural areas and among the following individuals and groups, namely internally displaced persons, minority returnees, families headed by single parents, victims of sexual violence suffered during the armed conflict, children without parental care, older persons, pensioners, persons with disabilities, the Roma people and members of other ethnic minorities, whose specific needs are not sufficiently addressed in the Mid-Term Development Strategy for 2004-2007.

38. The Committee urges the State party to ensure that adequate funds from the overall resources of the Entities, cantons and municipalities be allocated to the social welfare centres and that the number of social workers, psychologists and other qualified personnel of these centres be increased in order to better respond to the specific needs of children without parental care, female heads of households, persons with disabilities and victims of trafficking in persons, especially women and children.

40. The Committee encourages the State party to promote the adoption of the proposed Law on Amendments to the Law on Social Protection, Civilian War Victims, and Families with Children, which is currently in the parliamentary procedure in the Federation of Bosnia and Herzegovina. It provides for the transfer of the budget for the social protection of civilian war victims and persons with disabilities not related to armed conflict from the cantons to the Federation, in order to eliminate inequalities resulting from the diverging availability of funds

in the cantons. It also requests the State party to ensure that the authorities of the Federation of Bosnia and Herzegovina extend this budgetary transfer to other categories of social protection beneficiaries.

Concluding Observations of the CRC Committee, [CRC/C/15/Add.260](#), 2005

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee notes with appreciation:

(e) The enactment of the Law on the Protection of Mentally Disabled Persons and the decision of the Council of Ministers of Bosnia Herzegovina, on 30 December 2003, to adopt the Standard Rules on the Equalization of Opportunities for Persons with Disabilities, adopted by the General Assembly on 20 December 1993 (resolution 48/96);

Non-discrimination

25. The Committee is concerned that discrimination on grounds of ethnicity, political affiliation, national origin, social status, status as internally displaced persons or returnees, residence in rural areas and gender or disability continues to be widespread. The Committee also expresses concern at the information that - despite some improvements - the media sometimes contribute to stigmatization and social exclusion by conveying stereotyped messages and distrust of people belonging to minority and/or ethnic groups.

26. In accordance with article 2 of the Convention, the Committee recommends that the State party carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake on the basis of that evaluation the necessary steps to prevent and combat all discriminatory disparities. It also recommends that the State party strengthen its administrative and judicial measures to prevent and eliminate de facto discrimination against children, in particular children with disabilities, Roma children and children belonging to ethnic and/or religious minorities or other nationalities. The State party is also encouraged to develop, in consultation with the media, a code of conduct with a view to eliminating stereotyping and stigmatization of minority and/or ethnic groups in the media.

Children with disabilities

44. While the Committee welcomes the various legislative measures taken for the protection of children with disabilities, it notes with concern that discriminatory practices and prejudices still exist towards disabled persons, including children and that they lack sufficient medical care and educational opportunities.

45. While the Committee welcomes the new framework law on primary and secondary education (2003), which requires inclusive learning and integration of children with special needs into mainstream education, it regrets that, so far, the implementation of the law has been inconsistent.

46. The Committee encourages the State party to actively pursue its current efforts and to continue to:

(a) Review existing policies and practice in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities and of the Committee's recommendations adopted at its day of general discussion on children with disabilities (see [CRC/C/69](#));

(b) Make efforts to detect disabilities within the educational system and ensure better evaluation of the overall needs of students with disabilities;

- (c) Take concrete and specific measures to ensure that children with disabilities may exercise their right to education to the maximum extent possible and facilitate inclusion in the mainstream education system, including vocational education;
- (d) Undertake greater efforts to make available the necessary professional (i.e. disability specialists) and financial resources, especially at the local level, and to promote and expand community-based rehabilitation programmes, including parent support groups;
- (e) Strengthen public awareness campaigns to change negative public attitudes towards persons with disabilities.

6. Education, leisure and cultural activities

57. The Committee is concerned that there exists extensive discrimination regarding access to education by ethnic and/or national minorities, especially Roma (only 33 per cent of whom attend primary school). Furthermore, the Committee is concerned that other marginalized groups of children, including refugees and returnees and children with disabilities face difficulties of access to schooling.

59. The Committee recommends that the State party:

- (a) Strengthen its efforts to harmonize legislation on education and ensure its effective and uniform implementation throughout the country;
- (b) Take all necessary measures to ensure that articles 28 and 29 of the Convention are fully implemented, in particular with regard to children belonging to the most vulnerable groups (i.e. minority groups, those living in poverty, refugee and returnee children, Roma children, children with disabilities, etc.);
- (c) Improve the efficiency of the educational system, paying particular attention to the high drop-out rates;
- (d) Provide access to preschool education throughout the country, including to children living in rural areas;
- (e) Increase the availability of vocational training programmes for young people, with the view of facilitating their access to the labour market;
- (f) In the light of article 29 on the aims of education, harmonize the educational system throughout the country, eliminate the so-called system of “two schools under-one-roof” and establish adequate programmes and activities with a view to create an environment of tolerance, peace and understanding of cultural diversity shared by all children to prevent intolerance, bullying and discrimination in schools and society at large;
- (g) Ensure that adequate space and facilities are provided to children for their rest and leisure, as well as for recreational and cultural activities;
- (h) Seek technical assistance from UNESCO and UNICEF.