

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

Suggestions for disability-relevant questions to be included in the List of Issues Pre-session Working Group of the CEDAW Committee for the 52nd 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 submitted to the Committee on the Elimination of Discrimination against Women.

BULGARIA

Bulgaria signed the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 27 September 2007 and 18 December 2008 respectively.

State Report

Selected references to persons with disabilities in the state report:

9. The legal definition of discrimination introduced by the law is in conformity with the definition the Convention provides for. Direct discrimination is defined as any unfavourable treatment of a person on grounds of gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or faith, education, beliefs, political affiliation, personal or public status, **disability**, age, sexual orientation, marital status, property status or of any other indications established by a law or an international treaty to which the Republic of Bulgaria is a party, compared to the way other persons are treated, have been treated or would be treated in comparable similar circumstances.

169. Bulgarian constitutional, labour and criminal legislation contain important regulations guaranteeing the right to work and labour freedom and protection. The State is obliged to create conditions for the exercise of this right, including to persons with physical and mental disabilities (with completely or partially preserved capacity to work). The latter finds expression in other specific laws (for example, in the Protection, Rehabilitation and Social Integration of Disabled Persons Act, the Integration of Persons with Disabilities Act of 2005), secondary legislation, particular programs and measures of the executive authorities. They most often give employers economic incentives to hire persons who for one reason or another have difficulties finding work, or are not competitive enough on the labour market, including because of gender. Employers must comply with the requirements of the laws and other statutory instruments, use when possible and if they wish the economic incentives provided, and in the management of their personnel ensure observance of the basic rights of factory and office workers, and not to allow any discrimination at work, to provide the necessary conditions for work, rest and leave.

174. The Labour Code includes provisions prohibiting discrimination in the area of employment relationships, and in particular: prohibition of direct or indirect discrimination on grounds of nationality, origin, gender, race, skin colour, age, political and religious

convictions, affiliation to particular trade unions, marital, social and property status and disability when citizens exercise their labour rights and duties (Article 8, paragraph 3); women and men are entitled to equal pay for equal work or work of equal value (Article 243). The Code furthermore provides a legal definition of the term “indirect discrimination.” (§ 1, Item 7 of the Supplementary Provisions) and specifies that differences or prerequisites based on qualification requirements for performance of particular work do not constitute discrimination, and provides for special protection of certain factory and office workers (underage, pregnant and mothers of young children, people with disabilities, occupational rehabilitees, others), established by statutory instruments.

178. The Social Assistance Act prohibits discrimination (Article 3), excluding any direct or indirect discrimination on the grounds of gender, race, skin colour, ethnic identity, religion or faith, disability, age, sexual orientation, marital status or origin, membership of trade unions and other public organizations and movements in the implementation of social assistance.

195. The established policies and practices have been followed up in recent years. 2005 saw the start of the implementation of the first National Action Plan for Promotion of Gender Equality, whose measures are directed towards increasing the economic activity (start-ups) of women and creation of conditions for achievement of equal opportunities for access to the labourmarket and remunerative employment. The National Employment Agency implemented projects for raising women’s economic activity in the labour market, such as: “Family Centers for Children” project, National Program “Support for Motherhood”, “Assistants for People with Disabilities” Program, National Program “Support for Retirement” An opportunity is provided for the enrolment of women of risk groups in the labour market (young women, parents taking care of disabled children, women aged over 50) in courses for professional qualification and retraining, in order to enhance their employability, including self-employability.

213. Women’s access to healthcare is guaranteed through compulsory health insurance and the choice of a general practitioner. Health-insured women have access to a basic package of health services, guaranteed by the budget of the National Health Insurance Fund, which consists of: disease prevention and early detection procedures performed by doctors and dentists; non-hospital and hospital medical care for clinical diagnostics and treatment vis-à-vis a disease under clinical pathway; medical rehabilitation; emergency medical care; medical care in pregnancy, childbirth and maternity; therapeutic abortions and abortions to terminate pregnancy resulting from rape; dental and dental mechanics care; home treatment medic care; prescription and dispensation of medicines licensed for use, provided for home treatment within the territory of the country, etc. As a rule, the package covers rudimentary examinations and tests, and the patient pays extra for the more sophisticated ones. Access to healthcare is problematic when health insurance contributions are not paid or are paid irregularly, which may be a result of a number of circumstances: continued unemployment, work in the gray sector without paying health insurance contributions, lack of information, etc. Uninsured women have access to the following state-guaranteed emergency medical care financed by the executive budget: obstetric care for uninsured women regardless of the manner of delivery; in-patient psychiatric care; provision of blood and blood products; transplantation of organs, tissues and cells; obligatory treatment and/or obligatory isolation; expert examination for extent of disability and permanent loss of working capacity; payment for treatment and medicines for diseases according to a procedure established by the Minister of Health; provision of medical transportation.

251. To be eligible for family allowances, families and pregnant women must have an average monthly income per family member for the preceding 12 months lower than or equal to the income fixed for this purpose by the State Budget of the Republic of Bulgaria Act for the relevant year. The mother is entitled to a lump-sum allowance upon live birth, regardless of the family income, provided the child is not surrendered to public care. The allowance is

paid to the mother and if she is unable to receive it, it is paid to another legal representative of the child. If an extent of permanent disability of 50 % or more is ascertained in the child before its second birthday, a lump-sum supplementary allowance is paid to the mother. The amount of this allowance is fixed annually by the State Budget of the Republic of Bulgaria Act for the relevant year but may not be lower than the amount for the preceding year.

257. For example, according to the Report of the Social Assistance Agency, in 2009: (c) 77,002 mothers, who gave birth to 77,900 children, received lump-sum childbirth benefits, and of these, 438 mothers received a supplementary lump-sum benefit for children with disabilities;

267. The gender equality and non-discrimination principle, which is enshrined in the Convention on the Elimination of All Forms of Discrimination against Women and is a leading principle in the EU, is also enshrined in the Constitution of the Republic of Bulgaria, the national legislation, the statutory framework, the National Strategy, mechanism and measures for ensuring in practice equal opportunities for men and women, and it is fully applicable to rural women as well. In the process of acceding to the EU, Bulgaria adopted special policies and measures for rural women within the context of the Convention and since 2000 the national policy on gender equality has found expression mostly in the implementation of EU directives, principles and measures upon preparation of national plans and programs for agricultural and rural development and for regional development, viz:

(a) National Agriculture and Rural Development Plan for 2000 – 2006 under the EU Special Accession Programme for Agriculture and Rural Development (SAPARD). Measure 2.1 expressly states that the measure “will not tolerate any discrimination towards potential beneficiaries based on religion, sex or physical disability. Women and disabled persons will receive special attention, organization and training should they decide to start or develop activities in the ‘in-house’ craftsmanship area.”

276. Registered agricultural and tobacco producers are obliged to pay social insurance contributions for disability through general sickness, for old age and for death. The rate of the social insurance contribution covering these risks is 23 % of a monthly income which may not be less than a minimum (BGN 240) and more than a maximum (BGN 2,000) fixed by the Public Social Insurance Budget Act for the relevant year. A preference for registered agricultural and tobacco producers who carry out agricultural activity only is that they may pay the social insurance due until 31 March of the year following the calendar year for which they apply, as well as to have their obligations to Public Social Insurance rescheduled over a longer period of time.

IDA suggestions for list of issues

- What steps are being taken to repeal restrictions in the Constitution (Article 42) which automatically excludes persons who are under guardianship from their right to vote in violation of Article 29 of the CRPD, which comprises the latest international standards with respect to participation in political and public life of persons with disabilities including women with disabilities?
- What programmes are in place to ensure that women and girls with disabilities are able to choose for themselves their vocation and to receive the necessary educational support and training to that end? What laws and policies provide reasonable accommodation to women with disabilities in the workplace?
- What measures are being taken, including the provision of support services, to assist families, including both mothers with disabilities, and mothers or women in the family who are the lead caregivers in their care for children with disabilities? In particular how are services and assistance rendered to permit women in families with children with

disabilities, as well as mothers with disabilities, to continue their careers with an appropriate work/life balance?

- What is being done to ensure that no children are institutionalized on the basis of disability, and to provide all children with disabilities with support to live in the community?
- What steps are being taken to ensure that disability is explicitly listed as a prohibited ground for discrimination in the Constitution (Article 6(2)) and in other legal provisions including the Public Education Act? (See Concluding Observations CRC/C/BGR/CO/2, 2008 in Annex below)
- What steps are being taken to ensure that children with disabilities, including those who are living in institutions, receive an inclusive and quality education? What measures are being taken to ensure that the education of children with disabilities is streamlined under the supervision of the Ministry of Education (from the current mandate of the Ministry of Labour and Social Policy)? (See Concluding Observations CRC/C/BGR/CO/2, 2008 in Annex below)
- Please indicate what steps are being taken to ensure access to justice for persons with disabilities and to guarantee a right to a defence, by ensuring that women with disabilities have the right to exercise their legal capacity by participating in legal proceedings on their own behalf, and have access to accommodations and support that they may need to enjoy this right on an equal basis with others?
- What steps are being taken to reform the law to ensure that women with disabilities exercise legal capacity on an equal basis with others and are provided with necessary support to exercise it, respecting the will and preferences of the person concerned?
- What steps are being taken to adopt measures to ensure that the mental health policy requires all health care and services to be based on the free and informed consent of the person concerned and that involuntary treatment and confinement are not permitted by law?
- What steps are being 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 and information for victims are made accessible to women and girls with disabilities?
- What steps are being taken to implement an effective data collection system which is disaggregated by sex, age, disability and region, which can inform the development of policies and programmes to promote equal opportunities for women and girls with disabilities in society? (See Concluding Observations CRC/C/BGR/CO/2, 2008 in Annex below)
- What measures are being taken to ratify the CRPD and its Optional protocol?

ANNEX - References to women and girls with disabilities in Bulgaria by other treaty bodies:

Human Rights Committee Concluding Observations, CCPR/C/BGR/CO/3, 2011:

10. The Committee is concerned at information on violent and discriminatory practices against children and adults with disabilities in medical institutional settings, including deprivation of liberty, the use of restraint and the enforced administration of intrusive and irreversible treatments such as neuroleptic drugs. The Committee is also concerned at the difficulties faced by institutionalized persons to reintegrate into society and at the absence of psycho-social rehabilitation programmes for them (article 2, 6, 7, 9, 10, 26).

The State party should implement a policy of zero tolerance on violent and discriminatory practices against children and adults with disabilities in medical settings and take the necessary measures to guarantee the effective and thorough investigation of all allegations of torture and ill-treatment, and the adequate prosecution and sanction of the alleged perpetrators. The State party should also set up and implement psycho-social rehabilitation programmes for institutionalized persons.

17. The Committee remains concerned that persons with mental disabilities do not have access to adequate procedural and substantive safeguards to protect themselves from disproportionate restrictions in their enjoyment of rights guaranteed under the Covenant. In particular, the Committee is concerned that persons deprived of their legal capacity have no recourse to means to challenge violations of their rights, that there is no independent inspection mechanism of mental health institutions, and that the system of guardianship often includes the involvement of officials of the same institution as the confined individual (articles 2, 9, 10, 25, 26).

The State party should:

- (a) Review its policy of depriving persons with mental disabilities of their legal capacity and establish the necessity and proportionality of any measure on an individual basis with effective procedural safeguards, ensuring in any event that all persons deprived of their legal capacity have prompt access to an effective judicial review of the decisions;
- (b) ensure that persons with mental disabilities or their legal representatives are able to exercise the right to an effective remedy against violations of their rights and consider providing less restrictive alternatives to forcible confinement and treatment of persons with mental disabilities; and
- (c) take appropriate measures to prevent all forms of ill-treatment in psychiatric institutions, including through the establishment of inspection systems that take into account the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (adopted by the General Assembly in resolution 46/119).

CRC Committee Concluding Observations, CRC/C/BGR/CO/2, 2008

Non-discrimination

24. While noting the efforts undertaken by the State party to counter discrimination, including through the Law on Protection against Discrimination, the Committee is deeply concerned at the persistent discrimination against Roma children, as well as children living in institutions and children with disabilities, in particular with regard to access to education, health care and housing. The Committee is also concerned that, in spite of considerable international assistance, the Programme for Equal Integration of Roma into Bulgarian Society lacks an adequate strategic approach and sufficient coordination.

25. The Committee recommends that the State party:

- (a) Effectively ensure that all children within its jurisdiction enjoy the rights enshrined in the Convention without discrimination, in accordance with article 2 of the Convention by implementing the existing law;

- (b) Undertake comprehensive public education campaigns to prevent and to address negative societal attitudes and behaviour based on sex, age, race, nationality, ethnicity, religion and disability;
- (d) Explicitly include, by taking into account its general comment No. 9 (2006), specific prohibition of discrimination on the ground of disability in other specific legal provisions, including the Public Education Act;

Data collection

18. The Committee commends the State party for having set up within SACP a data collection system which is active in eight regions of the country. However, the Committee regrets that disaggregated data on many areas of the Convention are not available such as on children victims of violence, children with disabilities, the situation of child labour, street children, economic and sexual exploitation, and marginalized children and that the State party does not have a centralized system of data collection.

Family environment

33. The Committee notes the numerous efforts undertaken by the State party to deal with the rights of the child within the family setting. However, the Committee is concerned at the inadequate support provided to families with children and especially to families in a crisis situation due to poverty, families caring for children with disabilities and to single-parent households. Furthermore, the Committee is concerned that insufficient early intervention, including family support and crisis intervention, gives rise to neglect and abandonment of children and is the root cause of the high number of institutionalized children. In that regard the Committee is concerned at the insufficient availability of family counselling services and parental education programmes as well as professional staff trained to identify and address family problems.

34. The Committee recommends that the State party:

- (a) Redirect allocations of national and regional budgets, with increasing funding for programmes and services to encourage the possibility of children to remain in their family environment;
- (b) Increase support to families with children, in particular for those living in poverty, families caring for children with disabilities and to single-parent households;
- (c) Develop and financially support community-based and family-focused services for families at risk of social problems and families who care for children with developmental challenges, disabilities or health problems;

Children with disabilities

43. The Committee is concerned at the persisting shortage of resources for the development of educational, social and health services for children with disabilities and their families in their own living environment. Furthermore, the Committee is concerned that children with disabilities are often placed in large residential institutions and that these institutions do not provide the professional competence and special equipment required. The Committee is also concerned at the lack of efforts to develop an effective monitoring and data collection systems on the situation in social care homes for children with disabilities, particularly with regard to the right of children with disabilities to education. The Committee is also concerned that Roma children with disabilities experience double discrimination.

44. The Committee recommends that the State party, while taking into account the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's general comment No. 9 (CRC/C/GC/9) on the rights of children with disabilities, take all necessary measures to:

- (a) Provide children with disabilities and their families with adequate support, including access to social protection to allow them to remain within their families;
- (b) Provide training for professional staff working with children with disabilities, such as medical, paramedical and related personnel, teachers and social workers;

- (c) Establish a formal monitoring system for residential care homes for children which closely examines the right to education of children with mental and other disabilities, as well as ensure that monitoring incorporates concrete steps to follow up recommended actions, and favours the participation of civil society organizations;
- (d) Develop and effectively apply new regulations to ensure that management of homes for children with mental disabilities is regularly evaluated in relation to securing the right to education and other rights for children living in the homes;
- (e) Establish and implement a comprehensive data collection system which takes into consideration the number of children with disabilities (disaggregated by age, sex, and ethnic or social origin), number and categories of homes for children with mental disabilities, number of children entering and leaving the homes, information on where children are moved to, information on the number of children who have been integrated into special schools or mainstream schools;
- (f) Use these data to develop a comprehensive and specific national policy on disability which promotes the full and equal enjoyment of all human rights and fundamental freedoms by all children with disabilities and their full and effective participation in society; and
- (g) Develop skills of local-level governments and institutions, including Child Protection Departments, support activities of NGOs (especially organizations of parents) and cooperate with them in the process of continuing to develop community based day care and early childhood development services for children with special needs.

58(d) Include children with disabilities in the general school system, provide the needed personnel and material resources to the schools in which these children are enrolled and reduce the number of schools for children with special educational needs to the unavoidable minimum taking into account the Committee's general comment No. 9 "The rights of children with disabilities" (CRC/C/GC/9);

(e) Expand early childhood development programmes and preschool education to more children and in particular use the mandatory year before primary school for a better preparation of children from ethnic minorities, in particular Roma children, and children with disabilities taking into account the Committee's General Comment No. 7 on Implementing child rights in early childhood (CRC/C/GC/7/Rev.1);

CAT Committee Concluding Observations, CAT/C/CR/32/6, 2004:

6(e) Undertake all necessary measures to address the situation in homes and hospitals of persons with mental disabilities to ensure that the living conditions, therapy and rehabilitation provided are not in violation of the requirements of the Convention. The Committee also urges the State party to ensure that the placement of children in social care homes is regularly reviewed. It urges the State party to provide monitoring and reassessment of diagnoses by specialists, with appropriate appeal procedures;