



# Convention on the Rights of Persons with Disabilities

Distr.: General  
17 April 2015  
**ADVANCE UNEDITED  
VERSION**

Original: English

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## Committee on the Rights of Persons with Disabilities

Thirteenth session

25 March-17 April 2015

### Concluding observations on the initial report of Croatia

#### I. Introduction

1. The Committee considered the initial report of Croatia (CRPD/C/HRV/1) at its 178th and 179th meetings, held on 30 and 31st March 2015, respectively, and adopted the following concluding observations at its 193<sup>rd</sup> meeting, held on 13 April 2015.
2. The Committee welcomes the initial report of Croatia, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for the written replies (CRPD/C/HRV/Q/1/Add.1) to the list of issues prepared by the Committee.
3. The Committee appreciates the fruitful dialogue held with the State party's delegation and commends the State party for the high level of its delegation, which included many representatives of relevant Government ministries. The Committee welcomed the independent participation of the Republic of Croatia Disability Ombudswoman.

#### II. Positive aspects

4. The Committee commends the State party on a number of achievements, notably the National Strategy of Equalization of Opportunities for Persons with Disabilities 2007-2015, the National Plan for Deinstitutionalisation and Transformation of Social Welfare Institutions and Other Legal Persons Providing Social Welfare, the National Programme for the Protection and Promotion of Human Rights 2008-2011 and various legislative measures such as the new Voters Registration Act (2013), the amendments to the Antidiscrimination Act (2012), and the new Social Welfare Act (2013). It also commends the State party for its legislative measures to abolish plenary guardianship and enable persons with disabilities to be equally recognized as persons before the law, the expanded quota obligations to all employers for the employment of persons with disabilities, and for ensuring that disability benefits were not the targets of austerity measures as a result of the financial crisis. The Committee is pleased about that a number of shelters for victims of violence have been adapted for persons with disabilities.

### **III. Principal areas of concern and recommendations**

#### **A. General principles and obligations (arts. 1–4)**

5. The Committee is concerned that the State party has not yet comprehensively reviewed domestic legislation with a view to implementing the human rights model of disability. It notes that there seems to be a lack of understanding of the meaning of reasonable accommodation and universal design in areas such as education, health, employment, built environment. The Committee is concerned that due to the lack of a broad service providers' network, organisation of persons with disabilities (DPOs) have been forced to assume this role at the expense of their advocacy role.

6. **The Committee recommends that the State party initiates a comprehensive review of existing legislation and where necessary brings legislation in alignment with the Convention. It recommends that the concepts of reasonable accommodation and universal design are regulated beyond the context of the anti-discrimination act in areas such as education, health, transportation and building. It is recommended that the State party provide funding to enable DPOs to fulfil their role under article 4(3) of the Convention.**

#### **B. Specific rights (arts. 5–30)**

##### **Equality and non-discrimination (art. 5)**

7. The Committee is concerned that for the entitlement to social services and benefits, distinction is made between different causes of impairments, such as war or accidents. It is further concerned that exclusion and segregation in education, work or residential living is not regarded as a form of discrimination.

8. **The Committee recommends that disability based services and benefits are made available to all persons with disabilities irrespective of the cause of their impairment. It further recommends that the State party takes legislative and policy measures to clarify that disability based exclusion and segregation in education, employment and other fields of social life, is a form of discrimination.**

##### **Women with disabilities (art. 6)**

9. The Committee is concerned that a high proportion of women with disabilities have only primary school education or less. Moreover it is concerned about the gap between the number of men with disabilities and women with disabilities in employment. The Committee is worried about reports on violence against women and girls with disabilities in families and in institutions, in particular psychiatric institutions.

10. **The Committee recommends that in consultation with organisations representing women with disabilities, measures are taken to advance the development and empowerment of women with disabilities in fields such as education and employment, and that immediate action is taken for the protection of women and girls with disabilities against violence, including sexual violence. The Committee recommends to mainstream women with disabilities into general gender equality policies. It recommends that both these measures and action should be accompanied by sufficient budget and clear time lines. The Committee recommends to systematically collect data and statistics on the situation of women and girls with disabilities with indicators that assess intersectional discrimination as well as to include an analysis of them in their next periodical report.**

### **Children with disabilities (art. 7)**

11. The Committee is seriously concerned about the high rate of child abandonment and institutionalization of children with disabilities in the State Party; for their lack of attention and care in the areas of education, health and habilitation; for their vulnerability to violence and abuse, as well as the limited scope of specific measures for them in rural areas. The Committee is also concerned that children with disabilities are not systematically involved in decisions that affect their lives and do not have the possibility to express their opinion in matters that affect them directly.

12. **The Committee recommends the State party to ensure equal protection of children with disabilities in all legislation, policies and measures aimed at children, and strengthen its policy for the de-institutionalisation of children with disabilities. It further recommends to establish and implement a strategy against abandonment of children with disabilities and to adopt safeguards to ensure consultation of children with disabilities in all matters affecting them. The Committee recommends that the State party introduce a clear strategy for a moratorium on new admissions to institutions and strengthen its efforts to provide psychological, financial and social service support measures to families.**

### **Awareness-raising (art. 8)**

13. The Committee is concerned at the insufficiency of awareness-raising measures on the rights of persons with disabilities and the fact that the medical and charity model of disability still prevail in mass media.

14. **The Committee recommends that the State party in cooperation with organizations of persons with disabilities and other stakeholders undertakes public awareness campaigns to reinforce the positive image of persons with disabilities as holders of all the human rights recognized in the Convention. It recommends the State party to provide training to all public authorities and public or private professionals working with persons with disabilities on the rights enshrined in the Convention.**

### **Accessibility (art. 9)**

15. The Committee is concerned that accessibility to buildings, places, transportation and information and communication is still rather low, especially outside of the capital-city area. The Committee is concerned that accessibility is narrowly construed to pertain to the physical environment and transportation, whereas information and communication services are neglected.

16. **The Committee recommends that the State Party assess accessibility with respect to buildings, places and transportation as well as accessibility to information and communication services, as referred to in the Committee's general comment No. 2 (2014), and adopts action plans to improve accessibility with clearly defined and realistic deadlines and indicators. Organizations of persons with disabilities should be involved in planning and implementation of these accessibility plans. It further recommends allocating sufficient resources to make public and private transportation accessible.**

### **Equal recognition before the law (art. 12)**

17. The Committee is concerned that substituted decision making has not been replaced by supported decision making in law and in social practice, and that legislative amendments that are envisaged still consider the "best interest" of the person as opposed to his/her will and preferences and would maintain a modified regime of substitute decision-making. It is

concerned that the Constitutional Court has suspended the new Family Act which abolished plenary guardianship.

18. **The Committee recommends that legislative measures are taken to abolish substitute decision making regimes in accordance with the Committee's general comment No.1 (2014), and that it provide a wide range of measures which respect a person's autonomy, will and preferences, including with respect to a person's right, to give and withdraw their own individual informed consent for medical treatment, to access justice, to vote, to marry, to full parental rights, and to work. It further recommends taking tangible steps to introduce systems of supported decision making and to this end train social workers, legal professionals and public authorities on the rights enshrined in the Convention. Organizations of persons with disabilities as well as other relevant stakeholders should be involved in these legislative and policy processes.**

#### **Liberty and Security of the person (art. 14)**

19. The Committee is concerned that people with disabilities are subjected to involuntary detention and admission in institutions on the basis of their impairment. Of particular concern is the practice of detaining involuntarily people with psycho-social and intellectual disabilities.

20. **The Committee recommends repealing legal provisions which permit involuntary commitment on the basis of impairment and that laws, including the Act on Protection of Persons with Mental Disorders, are aligned with the Convention.**

21. The Committee is concerned that there is a lack of information about people with disabilities allegedly involved in crimes and about the application of the rule of law in these cases.

22. **The Committee recommends the State party to review procedures and practices related to investigation, prosecution, and treatment of persons with disabilities committing criminal offences. It is recommended to examine whether the general safeguards and legal standards of criminal justice, i.e. the presumption of innocence, the right to fair trial apply. The Committee's statement on article 14 of the Convention is recommended as guidelines in this regard.**

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

23. The Committee is concerned about the hard situation in a significant number of social care institutions and psychiatric facilities where persons with disabilities, mostly women, have to live under degrading and overcrowded conditions for the rest of their lives. It is concerned about the frequent use of involuntary treatment and restraint measures as well as other forms of degrading treatment. The Committee is concerned that these laws do not sufficiently protect persons with disabilities against violence in institutions and involuntary and degrading treatment.

24. **The Committee urgently recommends that immediate steps are taken to address the hard situations in institutions, to end involuntary treatment and stop the use of restraint measures. It is further suggested that the respective legislation is brought into alignment with the Convention. The Committee further recommends the investigation and prosecution of all human rights violations.**

### **Freedom from violence and abuse (art. 16)**

25. The Committee is concerned that mainstream services for victims of violence are generally not accessible to persons with disabilities and in particular women and girls and boys with disabilities are left unprotected. It is further concerned that, with the exception of the State Commission for the Protection of Persons with Mental Disorders there is no independent monitoring mechanism in line with article 16 (3) for programmes and facilities serving persons with disabilities.

**26. The Committee recommends the State party to mainstream services for the protection of persons with disabilities against violence and make them fully accessible. Furthermore, monitoring mechanisms should be developed in line with Art. 16 (3) of the Convention.**

### **Protecting the integrity of the person (art. 17)**

27. The Committee is deeply concerned that children and adults with disabilities can be sterilized without their free and informed consent pursuant to the Health Act, in cases where their parents or guardians have so requested. It is further concerned about frequent use of forced medical treatment of persons with disabilities.

**28. The Committee recommends that:**

(a) **the Health Act be urgently amended to unconditionally prohibit the sterilization of boys and girls with disabilities, and of adults with disabilities in the absence of their individual prior, fully informed and free consent;**

(b) **persons with disabilities are provided with support to make informed choices and decisions regarding medical procedures and interventions, and**

(c) **medical professionals are trained in accessible and alternative communication techniques in order to communicate with persons with intellectual, psycho-social and sensory impairments.**

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

29. The Committee is, concerned, that not all residential institutions, such as smaller private institutions, wards for long-term care in psychiatric institutions and foster homes for adults, are covered by the deinstitutionalization plan. It is further concerned that a legal framework providing for personal assistant services allowing independent living in the community is lacking and that such services are only available to a limited number of persons with disabilities.

**30. The Committee recommends that the process of deinstitutionalization include all residential institutions for all persons with disabilities and foster homes for adult persons with disabilities. It recommends to adopt a legal framework providing for entitlement to personal assistance services in the community and to initiate a process of making local communities and mainstream services accessible to persons with disabilities.**

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

31. The Committee remains concerned by the failure to provide all information in accessible formats and to effectively promote and facilitate the use of Croatian sign language as Croatia's official sign language, as well as the use of all other forms of accessible formats of communication.

**32. The Committee recommends the State party to further its effort to adapt the e-citizens project to meet the need of people with disabilities and to ensure that they**

**have access to information on equal basis with others by promoting and facilitating the use of easy to read, Braille, audio formats, and other augmentative and alternative communication in official interactions, and by making public websites accessible. It further recommends that the State party adopt and foresee measures to effectively and timely implement the Act on Croatian Sign Language and Other Forms of Communication Support for the Deaf and Deaf-blind Persons, including its regulation, in close consultation and with the active involvement of persons with disabilities. It is also recommended to ensure that deaf persons are provided with sign language interpretation in all judicial procedures.**

#### **Respect for home and family life (art. 23)**

33. The Committee is concerned that parental rights of persons with disabilities have not been recognized.

34. **The Committee recommends the State party to take legal and practical action to ensure that persons with disabilities can exercise their parental rights and adopt children on an equal basis with others. It recommends that the State party provide accessible information on the sexual and reproductive rights to all persons with disabilities and to provide access to adoption services and to community-based support services for parents with disabilities.**

#### **Education (art. 24)**

35. The Committee is concerned that a large number of persons with disabilities have not completed primary education, that less than 30% have completed secondary education, and that steps to provide reasonable accommodation to students with disabilities in mainstream educational facilities are insufficient. It is further concerned that exclusionary and segregated education of persons with disabilities is not considered discriminatory.

36. **The Committee recommends the State party to take immediate steps to ensure that all persons with disabilities have access to inclusive quality primary, secondary and tertiary education and that reasonable accommodation is provided in mainstream education. It further recommends establishing the principle that exclusionary and segregated education is discriminatory. It recommends that teachers and other professionals receive training on inclusive education and that all secondary education facilities are made accessible to persons with disabilities.**

#### **Health (art. 25)**

37. The Committee is concerned that the excessive burden of proof placed on people with disabilities who are not insured under the compulsory health care can lead to no access to health care facilities. It is further concerned that the mainstream health services are not accessible and adequate for persons with disabilities.

38. **The Committee recommends that further efforts are made to ensure that people with disabilities without compulsory health care insurance have access to health care facilities. The Committee further recommends that access to mainstream health services, sexual and reproductive health services are made accessible to people with disabilities, especially in rural areas. It also recommends that health professionals in mainstream health service are urgently trained to adequately offer services to persons with disabilities and respect the rights enshrined in the Convention.**

### **Habilitation and rehabilitation (art. 26)**

39. The Committee is concerned that many boys and girls with disabilities have no access to early intervention services, and that the situation is particularly hard for children with autism.

**40. The Committee recommends the State party to take measures to provide early intervention services to all children with disabilities.**

### **Work and employment (art. 27)**

41. The Committee is, concerned that the majority of persons with disabilities are either unemployed or have low income employment.

**42. The Committee recommends that the State party develop and implement – in cooperation with organisations of persons with disabilities (DPOs) – a plan of action to increase employment of persons with disabilities in the open labour market. It recommends that the quota system is complemented with other incentives for employers to hire persons with disabilities. Disincentives to employment for persons with disabilities should be analysed and reacted upon. Reasonable accommodation – including supported employment via personal assistance - and accessibility of the workplace should be regulated and monitored.**

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

43. The Committee is concerned that many persons with disabilities live under conditions of poverty, particularly those in rural areas and those of Roma origin. The Committee is further concerned about the use of a restrictive financial assets test, which has downgraded the disability benefit to a social protection benefit.

**44. The Committee recommends that poverty reduction programmes be strengthened. It further recommends that benefits aiming at alleviating increased costs arising from disability should be based on an assessment of the individual's support needs, and should disregard any financial assets test.**

### **Participation in political and public life (art. 29)**

45. The Committee is concerned that the electoral process is not yet fully accessible to all persons with disabilities. Furthermore it is concerned about the still low number of persons with disabilities in executive and representative public bodies.

**46. The Committee recommends that measures be taken to make the electoral process fully accessible to all persons with disabilities and to facilitate participation of persons with disabilities in representative and executive bodies.**

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

47. The Committee is concerned about the low participation of persons with disabilities in cultural life. It is further concerned that Croatia has not yet ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled.

**48. The Committee recommends the State party to take appropriate steps to ensure accessibility of mainstream cultural facilities and to take appropriate measures, e.g. disability art festivals, to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential. It is recommended that the State Party ratifies the Marrakesh Treaty.**

## C. Specific obligations (arts. 31–33)

### Statistics and data collection (art. 31)

49. The Committee is concerned that the system of data collection does not enable the State party to gather information needed to plan and strategize for the fulfilment of its duties under the Convention, e.g. because data on violence against women and girls with disabilities is lacking.

50. **The Committee recommends the State party to systematically review and reform the data collection system as it pertains to women and men with disabilities and to actively involve and closely consult with persons with disabilities and their representative organisations.**

### International cooperation (art. 32)

51. **The Committee calls for the integration of a disability rights-based perspective, in accordance with the provisions of the Convention, into all efforts aimed at the achievement of the Millennium Development Goals, and into the post-2015 Development Agenda.**

### National implementation and monitoring (art. 33)

52. The Committee is concerned that the independent monitoring body, the ombudswoman for persons with disabilities, is not designated as such by law and that it has no outreach possibilities to rural areas. It is further concerned that DPOs and other civil society organisations are not sufficiently supported by the government to participate in national implementation and monitoring.

53. The Committee recommends the State party to ensure existence of an independent monitoring body in accordance with the Paris Principles by adopting appropriate legislation on the ombudsperson of persons with disabilities. It is further recommended to provide DPOs and other civil society organizations with adequate resources for full and effective participation in the national implementation and monitoring process.

### Follow-up and dissemination

54. The Committee requests that the State party, within 12 months and in accordance with article 35, paragraph 2, of the Convention, provide information in writing on the measures taken to implement the Committee's recommendations as set forth in **paragraphs 24 and 28 (a) above.**

55. 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, members of relevant professional groups, such as education, medical and legal professionals, as well as the media, using modern social communication strategies.

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

57. 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, and to make them available on the government website on human rights.

#### **Next report**

58. The Committee requests the State party to submit its combined **second, third and fourth** periodic reports no later than **15 September 2021**, 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 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.

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