

**ALTERNATIVE REPORT ON THE IMPLEMENTATION OF
THE CONVENTION ON THE RIGHTS OF PERSONS WITH
DISABILITIES IN THE REPUBLIC OF SERBIA**

SUBMITTED BY – COALITION:

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(NOOIS)**

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II LIST OF ABBREVIATIONS

1. **NOOIS** - National Organization of Persons with Disabilities of Serbia
2. **CIL Srbija** - Center for Independent Living of Persons with Disabilities Serbia
3. **CC** - Criminal Code
4. **CCRS** - Constitutional Court of Serbia
5. **COD** - Center for Society Orientation, Disability Rights Promotion International
Regional Center for Europe
6. **CPC** - Criminal Procedure Code
7. **CPL** - Civil Procedure Law
8. **CPT** - Committee for the Prevention of Torture and Inhuman or Degrading Treatment or
Punishment of the Council of Europe
9. **CSO** – Civil Society Organizations
10. **FL** - Family Law
11. **GLPD** - General Law on Prohibition of Discrimination
12. **IC** - Interdepartmental Commission
13. **IEP** - Individual Education Plan
14. **LAT** - Law on Air Transportation
15. **LBTM** – Law on Books and Teaching Means
16. **LE** - Law on Emergencies
17. **LEE** - Law on Elementary Education
18. **LEJP** - Law on Extra-Judicial Proceedings
19. **LEMP** - Law on Election of MP's
20. **LFLA** - Law on Free Legal Aid
21. **LHC** - Law on Health Care
22. **LL** - Labour Law
23. **LP** – Law on Police
24. **LPDI** - Law on Pension and Disability Insurance
25. **LPDPWDs** - Law on Prevention of Discrimination against Persons with Disabilities
26. **LPE** – Law on Preschool Education
27. **LPI** - Law on Public Information
28. **LPP** - Law on Public Procurement
29. **LPREPWDs** - Law on Professional Rehabilitation and Employment of Persons with
Disabilities
30. **LSE** – Law on Secondary Education
31. **LSP** - Law on Social Protection
32. **LSSL** - Law on Serbian Sign Language
33. **LSPC** - Law on Spatial Planning and Construction
34. **LTS** - Law on Traffic Safety
35. **LUGD** - Law on Using a Guide Dog
36. **LUFS** - Law on Using Facsimile Signature
37. **LUSL** – Law on Using Sign Language
38. **NES** – National Employment Service
39. **OPWDs** – Organizations of Persons with Disabilities of Serbia
40. **REM** - Regulatory Authority of Electronic Media
41. **RFHI** – Republic Fund of Health Insurance
42. **SIPPWDs** - Strategy for Improving the Position of Persons with Disabilities
43. **SPIRS** - Social Protection Institute of the Republic of Serbia
44. **SWC** - Social Welfare Centre
45. **UNCRPD** - UN Convention on the Rights of Persons with Disabilities

III THE FOLLOWING ORGANIZATIONS PARTICIPATED IN THE CREATION OF THE ALTERNATIVE REPORT:

1. National Organization of Persons with Disabilities of Serbia (NOOIS)
2. Center for Independent Living of PWDs Serbia (CIL Serbia)
3. Center for Society Orientation (COD) – Disability Rights Promotion International (DRPI) Regional Center for Europe

And members of NOOIS:

4. Union of Associations for Assistance to Persons with Intellectual Disabilities
5. Association for Assistance to Persons with Autism of Serbia
6. Association for Assistance to Persons with Down syndrome
7. Deaf Union of Serbia
8. Union of the Blind of Serbia
9. Muscular Dystrophy Association of Serbia
10. Association of Paraplegics and Quadriplegics of Serbia
11. Association of Cerebral Paralysis and Polio of Serbia
12. Multiple Sclerosis Association of Serbia
13. Association of Labor Disabled Workers of Serbia
14. Network... Out of Circle - Serbia
15. Union of Association of Persons with Amputate and Limbs
16. Association of Serbia and Union of Associations of Kidney Patients of Serbia

IV INTRODUCTION

The Republic of Serbia signed the Convention on the Rights of Persons with Disabilities and Optional Protocol in December 2007. The Parliament of the Republic of Serbia ratified them in May 2009¹. The Government of the Republic of Serbia submitted the Initial Report on the Implementation of the Convention to the UN Committee for the Rights of Persons with Disabilities in January 2012.

The Alternative Report on the implementation of the Convention on the Rights of Persons with Disabilities in the Republic of Serbia is a result of the years of efforts of various organizations of persons with disabilities and other civil society organizations in monitoring the implementation of UNCRPD in Serbia. The Alternative Report is submitted by the coalition of organizations: the National Organization of Persons with Disabilities of Serbia (NOOIS) consisting of the network of 15 member organizations at the national level, the Center for Independent Living of PWDs Serbia (CIL Serbia) and the Center for Society Orientation - Disability Rights Promotion International Regional Center for Europe (COD).

The following articles of the Convention have been analyzed in the Report: 5. Equality and non-discrimination, 6. Women with disabilities, 7. Children with disabilities, 9. Accessibility, 11. Situations of risk and humanitarian emergencies, 12. Equal recognition before the law, 13. Access to justice, 19. Living independently and being included in the community, 20. Personal mobility, 24. Education, 25. Health, 27. Work and employment, 28. Adequate standard of living and social protection, 29. Participation in political and public life, 31. Statistics and data collection 33. National implementation and monitoring.

The Alternative Report is prepared in accordance with the guidelines of the UN Committee for the Rights of Persons with Disabilities and relies both on the research reports², produced by the organizations involved in the creation of this report in the previous period, which had been created on the basis of the participative methodology, by using desk analyses, collecting data from different sources, experiences of PWDs in practice, via questionnaires, interviews and focus groups in which numerous organizations and individuals participated, and on additionally collected data, as well as proposals and suggestions received during the process of submitting the comments to the proposal of this report. Persons with disabilities themselves, who had the roles of interviewers, system monitors, data processing analysts and media monitors, were also trained for the monitoring process. In addition to the reports created in the previous years, this report also includes additionally collected data, as well as proposals and suggestions received during the process of submitting the comments to the proposal of this report.

In the end, we would like to thank the team of people who worked on the preparation of this report as well as local organizations of persons with disabilities and other civil society organizations in Serbia which gave their contribution.

¹ "Official Gazette of RS - International Agreements", No. 42/2009

² The Draft of the Alternative Report on the Implementation of UNCRPD (2011) within the project "Building Capacities of the Organizations of PWD aimed at monitoring the implementation of the UNCRPD created by Center for Independent Living of PWD Serbia and National Organization of PWDs of Serbia, "Holistic Report: Monitor your Rights!", Center for Society Orientation - Disability Rights Promotion International Regional Center for Monitoring the Rights of Persons with Disabilities for Europe, "The Report on Harmonization of the Legislative and Institutional Framework in the Republic of Serbia with the UNCRPD and Recommendations for Harmonization", Center for Independent Living of PWD within the project "Establishing the Balkan Independent Network of Organizations of Persons with Disabilities" (2014) and "The Universality of Rights in Practice: the Analysis of the Implementation of UNCRPD in relation to Persons with Intellectual Impairments in Serbia", Initiative for the Rights of Persons with Intellectual Disabilities MDRI-S (2012).

V THE ANALYSIS AND REFERENCE TO SPECIFIC ARTICLES OF THE CRPD

Article 5. Equality and non-discrimination

In terms of general obligations of the member states of the CRPD the Republic of Serbia have not undertaken all adequate measures "to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities " (Article 4 of the Convention).

In the part of the Initial Report on the implementation of this article (p. 81-89) Government only list legal provisions, without reference to a level of implementation and identified obstacles in the implementation of these legal provisions in practice. In terms of discrimination, we can establish that even though *de jure* prohibition of discrimination and promotion of equality of persons with disabilities exist, they are still *de facto* discriminated in almost all aspects of the private and social life which is, among other things, a consequence of the lasting practice of segregation of persons with disabilities, rooted stereotyped attitudes and prejudice against persons with disabilities.

In terms of the health and normative framework of prevention and prohibition of discrimination, there are several problematic aspects:

- Legislative provisions relating to legal capacity in Serbia are discriminatory and entirely disharmonized with the provisions of the CRPD. In the provisions of the Family Law the recognition of legal capacity is directly linked to disability, that is, the psycho-physical developmental impairments are established as the foundation for the deprivation of legal capacity.
- The bylaw, that is, the Rulebook on Detailed Criteria for Recognizing Discrimination in the Educational System has not been adopted yet even after the several year deadline set by the legislator has passed which is not stated in the Initial Report (p. 86). Having in mind that children with developmental impairments are either excluded from the educational system or face great obstacles in realizing the adequate and quality education, such bylaw would contribute to their equality in education.

The annual reports³ of the Commissioner for the Protection of Equality indicate that the greatest number of complaints on the basis of disability was in the field of labor and employment, access to public services and/or using public facilities, education and professional training, as well as in the proceedings before public authorities. The Commissioner has also established that the number of complaints does not correspond to the actual position of persons with disabilities in society.

Proposed questions:

1. When the State is going to do the revision of remain laws and bylaws that are not in accordance with Law on Prohibition of Discrimination and UNCRPD, and define and provide the implementation of affirmative action measures?

³ The Regular Annual Report of the Commissioner for the Protection of Equality for 2014, Belgrade, March 2015

2. Which measures the State to take in order to conduct campaigns for informing the public on the rights of persons with disabilities and equal participation on an equal basis with others?

Article 6: Women with disabilities

The Initial State Report is analyzing the issues of women with disabilities in paragraph 209, stating the provisions of the National Strategy for the Prevention and Suppression of Violence against Women and Domestic Violence in which women with disabilities are mentioned for the first time as the group exposed to multiple marginalization. The data on exposure of women with disabilities to violence from the publication "Women with disabilities in Serbia" ⁴ were cited in paragraph 210. The provisions of SIPPD ⁵ and data on women with disabilities in the field of employment in which the unequal status of women in relation to men with disabilities can be seen were stated in paragraphs 341-356.

Due to the fact that there is no other information on the implementation of the Article 6. of the Convention, it has been concluded that the state neither dealt with providing the full and equal enjoyment of all human rights and fundamental freedoms of women and girls with disabilities systematically enough nor defined the measures for the empowerment of women with disabilities to enable them to be equal in society. Women with disabilities are not mentioned in any law of RS as a group exposed to multiple marginalization; there are no official data on their status and needs. Even though they are mentioned in some strategies, nothing has been done in terms of the implementation of these provisions yet. ⁶

The exposure to multiple discrimination and institutional and domestic violence against women with disabilities are a direct consequence of prevailing stereotypes and prejudice against them. A level of a woman's disability in a patriarchal society, such as ours, is measured with respect to how much a disability threatens the fulfillment of her social, traditional role. A disability of a woman is "severe" if it affects her look, physical ability to do housework, have and raise children. Having in mind the stereotype that women are mostly not able to fulfill those roles in an expected and socially acceptable manner due to their disabilities as well as the fact that support services are not provided for them, it is not at all surprising that their rights to love, sexuality, marriage, motherhood and personal acknowledgments have been denied to them. Therefore they become socially invisible and as such very often they are victims of psychological, physical, sexual, economic and institutional violence. Women with disabilities are discriminated in all spheres of social life but two of these spheres are especially serious⁷. One of the fields of discrimination against women with disabilities is the state's response to violence. The criminal act "rape" in the Criminal Law of Serbia ⁸ (Article 178, the prescribed punishment is 3 to 12 years in prison) is not applied when the victims are women with disabilities; instead, the criminal act "sexual intercourse with defenseless person" is applied for which the prescribed sentence is more lenient than when the victim is a woman without a disability (Article 179, the prescribed sentence is 2 to 10 years of prison).

⁴ December 2009, the organization "...OUT OF CIRCLE"

⁵ Strategy for Improving the Position of Persons with Disabilities

⁶ National Strategy for Improving the Position of Persons with Disabilities - National Strategy for Improving the Position of Women and Promotion of Gender Equality ("Official Gazette of RS", No. 55/05, 71/05, 101/07 and 65/08)

⁷ Experiences of Women with Disabilities, from the Database, "Network...OUT OF CIRCLE - Serbia".

⁸ "Official Gazette of RS" No. 85/2005, 88/2005 - amended, 107/2005 - amended, 72/2009, 111/2009, 121/2012, 104/2013 and 108/2014

The measure of "evicting a violator from an apartment" in the Family Law of RS⁹ is not applicable to women with disabilities because they are dependent on the violator in everyday life activities (getting up, dressing, going to toilet...). In the Republic of Serbia, there is still no support service for women with disabilities to satisfy these needs. They cannot shelter wherever and the existing shelters and safe houses are inaccessible. Institutions they ask protection from are inaccessible and they are not a priority for realizing social benefits.

The second important field of discrimination against women with disabilities is the protection of reproductive health. Using this right is very difficult to be realized due to prejudice that they are asexual, that they do not need to have sex and should not have babies. As a result, they are not recognized in the women's health protection policies. In addition to this, activities aimed at making gynecology facilities in Health Centers accessible have not been undertaken. There are only 9 hydraulic gynecological examination tables and 5 mammography units accessible to women with disabilities in Health Centers in Serbia.¹⁰

Proposed questions:

1. Which measures is State going to take in order to implement Article 6. of UNCRPD and include data on women with disabilities in official records of competent institutions?
2. When State is planning to amend criminal legislation in the part relating to domestic violence and sexual violence to punish a perpetrator in proportion to the criminal act he committed?
3. When State is going to prepare plans, define measures and ensure their implementation in order to provide respecting the rights to primary health care and reproductive health of women with disabilities such as by removing architectural, communication and technical barriers and educating medical workers and women with disabilities about the importance of reproductive health;
4. In which way State is going to support organizations of PWD for activities related to the empowerment and social inclusion of women with disabilities

Article 7. Children with disabilities

The information of the application of the Article 7. of the Convention in State report, are given within Paragraphs 60 – 68, 86. and 357 – 363. Although the data are correct and relevant, still the status of children with disabilities is especially delicate due to the fact that children most often face multiple discrimination and marginalization on the basis of disability as well as on the basis of years/age but also on the basis of a territory they live in due to the disproportionate socio-economic development of certain municipalities and towns in Serbia and especially due to the insufficient development of villages. Although the state have adopted various strategic documents, action plans as well as laws¹¹ aiming to improve the status of persons with disabilities, including children with disabilities in different fields of social life and has started the process of deinstitutionalization, still numerous problems affecting children with disabilities exist in practice, that have been registered by the organizations of PWD as well as by families who have children with disabilities. Namely they are:

⁹ "Official Gazette RS" No. 18/2005

¹⁰ Thanks to the activities of the organization "...OUT OF CIRCLE" for the protection of rights and support to women with disabilities.

¹¹ Like in social, health and education areas which are named within the analysis of relevant CRPD

- problems in health care, especially for children with mental and/or multiple disabilities, as inadequate and often delayed early diagnosis; uneducated medical workers for treating diseases which are not a direct consequence of a certain disability, such as dentistry, cardiology, neurology, oncology etc. As a result of this, families and their children often lose a lot of precious time in regard to early treatments, rehabilitation and other measures. Researches indicate that in Serbia there is an increase of chronically non contagious diseases, including the diseases relating to psychical impairments, as well as various neurological diseases.
- insufficient development and territorial inequality of support services for children and families who have children with disabilities. The service of personal escort for children with disabilities is just in developmental stage, standards have not been developed yet and is organized only sporadically. The other services that exist such as day care centers, help at home, relief accommodation, the therapeutic counseling and educational services, are not equally available across Serbia, there are not enough places for all children, the quality of services is not equal, some time staff is not appropriately trained and sustainable funding by local self-authorities is not always secured.
- inconsistency in respecting criteria for approving the right to the allowance for assistance and care of another person for children with intellectual impairments, as well as with multiple impairments Some children and adults with intellectual impairments, realize this right and some not, due to outdated regulations for the evaluation and incompetence of relevant Commission.

Within the last years, in the field of education, regulations have been considerably improved, due to the participation of the organizations representing the rights of persons with disabilities too, which is elaborated within Article 24.

However, the procedure of assessment of the child's needs for providing additional support is burdened with a number of weaknesses and disadvantages. The procedure is mostly aimed at the observation of a child, conversation with a parent and analysis of medical documentation. There is the lack of information from the immediate and wider environment that could be placed in the function of support.

The reaction to violence against children with disabilities is ad hoc. It is mostly revealed in the case of obvious neglect and abuse. Opening the subject of violence and dealing with this problem is seen as a significant step towards improving the practice of protection of children with disabilities and with developmental disabilities against violence.

Proposed questions:

1. Which measures State will take to build capacities of health institutions, pediatric services and patronage for early recognition and identification of problems of children with disabilities and their families?
2. Which measures State will take to develop programs for responsible parenthood and professionals who work with families, particularly in isolated and rural areas?
3. What will be done in terms of encouraging peer programs and greater participation of children with disabilities in social activities?
4. How does the State ensure that the views of children with disabilities and their families are taken into account in all matters affecting them, including in their participation in all protection systems and judicial administrative proceedings?

Article 9: Accessibility

The part of the Initial Report referring to Article 9 (**paragraphs 106-120**) mentions the regulations (laws and by-laws) regulating the field of accessibility, such as the Law on Road Traffic Safety, Law on Air Transportation, Rulebook on Persons with Disabilities and Persons with Reduced Mobility in Air Transportation, Law on Spatial Planning and Construction. In addition to this, the case law examples of the complaints for the field of accessibility submitted by individuals and local organizations of PWDs on the basis of the Law on Prevention of Discrimination against Persons with Disabilities are also stated.

However, the Initial Report does not mention all regulations in this area (such as the set of the Laws on Public Information, General Law on Prohibition of Discrimination, Law on Public Procurement). In addition to this, it does not provide a wider picture of accessibility for persons with all categories of disabilities as one of the elementary preconditions for inclusion in social community. This includes: accessibility of residential buildings, accessibility of buildings of public interest, accessibility of roads and public areas, accessibility of transportation and accessibility of information and communication.

However, in spite of all regulations, persons with disabilities in Serbia face obstacles to moving, using transportation, entering and moving through private and public buildings, using home appliances, electronic and digital systems, information and communication, services and products in every-day activities. Although there are adopted standards on accessibility and sufficiently dissuasive sanctions, they are not always applied due to the insufficient inspection supervision. Still there is not adequate training on accessibility standards to architect professional groups and local boards which provide approval for Construction and Use Permit.

Housing of persons with disabilities represents one of the acute problems in the field of accessibility and has a direct impact on the isolation of persons with disabilities and scope of their social participation. The Law on Spatial Planning and Construction prescribes that residential buildings with ten or more apartments must fulfill accessibility conditions. Adapting a place of residence of persons with disabilities is not systematically resolved. As a result, persons with disabilities are forced to find their own sources of financing for the above-mentioned adaptation as well as fulfill very complicated procedures for obtaining the necessary permit..

The inevitable segment in this field is **inaccessibility of public facilities** which can often be the foundation for discrimination against persons with disabilities. Institutions, such as posts, social welfare centers and police stations where citizens realize their civil rights are still mostly inaccessible to persons with disabilities, which is the fact that directly violates Article 9 of the Convention. During 2013 the Commissioner for the Protection of Equality published the *Report on Accessibility of State Authorities Business Buildings to Persons with Disabilities*. Accessibility of 23 state organs altogether was checked. The main elements of the review of accessibility were: accessibility of entrance (the existence of a platform or ramp), registry, toilets and elevators. Only three objects of State organs entirely fulfilled accessibility standards.

Accessibility of roads and public areas - in their statements persons with disabilities point out different forms of obstacles and speak about a low quality of the road and sidewalk surface (holes, open manholes, irregularly installed urban mobilier), as well as high sidewalks, the lack of tactile paths, the lack of audible traffic lights. The situation is especially critical in rural areas. Parking on the parking places marked for persons with disabilities is not a simple challenge,

starting from obtaining a necessary sticker to an insufficient number of parking places. Charges for improper parking on the places marked for persons with disabilities is a field which requires additional improvement of the normative framework and practical application.

Accessible transportation also represents a great obstacle. In practice, in addition to the regular public transportation, 90% of which is inaccessible, only in Belgrade there is the so-called specialized public transportation for persons with disabilities. However, it is limited for a greater number of beneficiaries due to a small number of vans (about 10 vehicles). In addition to this, these vehicles do not fulfill all safety standards. The specialized transportation organized by disability organizations represents an alternative to this transportation but this form of transportation is aimed only at a smaller number of members of that specific association. This service of specialized transportation is neither standardized nor financially supported for these service providers from the organizations of persons with disabilities. However, it should be recognized as a social service which can be licensed and obtain sustainable funding by local self-authorities. In smaller towns and especially in undeveloped municipalities there is not a single form of accessible transportation for persons with disabilities.

The *Law on Traffic Safety* is also important for the participation of persons with disabilities in traffic. In Article 24 a blind person who independently participates in traffic as a pedestrian should move with the help of a white cane and/or a trained guide dog. This indicates the need to now harmonize legislation because for instance the Law on Using a Guide Dog has only come into force and its implementation has yet to be monitored.

In the field of accessibility of information and communications there is a clear indication that access to information and communications is very difficult for persons with sensory impairments even though the Art.12 of Law on Public Information and Media prescribes the obligation to provide access to information and communications.

The print media are inaccessible to **visually impaired persons**. In order to alleviate this situation at least partially, the organizations of blind persons initiated sound magazines in which, among other things, stories from the print media are published. Radio is the most accessible to blind persons while television is not completely accessible. Therefore, in the conditions of modern technology, the conditions should be created for making all contents accessible to blind people too, with preserving the function of television as a medium by decoder.

Both radio and television are inaccessible to **persons with impaired hearing and hard-of-hearing persons**. At this point, there is the insufficient number of programmes for deaf persons in Sign language, thus the conditions should be created for making messages from television monitor accessible to deaf and hard-of-hearing persons. In the process of digitalization of the media, the conditions should be created for a lot of information to appear on a radio display which would be beneficial to deaf persons. Also, the adoption of the Law on sign language in March 2015 sign language becomes an official language for the hearing impaired, thus creating a legal basis for greater accessibility to information and communication, but still does not have enough indicators of how the law is implemented in practice. Sign language is also poorly distributed due to a small number of interpreters. One Sign language interpreter works for approximately 1.000 deaf and hard-of-hearing persons while 30.000 of them need an interpreter. There are 44 offices for translation services and about 300 interpreters in sign language with different level of specialization.

Proposed questions:

1. Is the Government aiming to adopt an accessibility plan which covers all aspects of accessibility including, to the physical environment, to transportation, to information and communication, in order to eliminate the existing barriers within a reasonable time frame and according to the real possible level, across both urban and rural zones ?
2. What steps will be taken to the improvement of mechanisms of control and inspection over the implementation of legal provisions in the field of accessibility and the Ordinance on the full respect of accessibility standards in practice?
3. How the state will encourage the urban and municipal authorities in their local development plans include measures for the creation of accessible transportation, information and communications, and other services and facilities for the public, both in urban and rural areas?

Article 11. Situations of risk and humanitarian emergencies

Certain paragraphs of the part of the Initial Report referring to Article 11 of CRPD - Situations of risk and humanitarian emergencies (paragraphs 146 to 153), such as paragraphs 146 The Law on Police, 150 internally displaced persons' rights and 153 the Defense Strategy of the Republic of Serbia, **mentions the documents on general principles only**, without specifying persons with disabilities and "necessary measures to ensure the protection and safety of persons with disabilities" as prescribed by Article 11 of CRPD or include information **which are not part of of situation of risk**, such as paragraphs 152 social housing in supportive environment and 148 on the total number of internally displaced persons on the territory of the Republic of Serbia in the end of 2010, because there are no data indicating if and how many PWDs were there.

In paragraph 147 the **Law on Emergencies**¹² in Article 57, paragraph 3 it is mentioned that evacuation shall be also performed for "sick persons, persons with special needs and other persons who need assistance and care of another person" but Article 62 prescribes that underground roads, basements and other undergrounds rooms, abandoned tunnels, caves and other natural facilities shall be used as shelters for protecting and sheltering people. However, if and in which manner accessibility of these facilities shall be provided for PWDs is not mentioned anywhere.

The **National Strategy of Protection and Rescue in Emergency Situations**¹³ adopted in the end of 2011 which prescribes that "all information on the protection and rescue system must be made accessible to persons with disabilities too in accessible formats and technologies for them" as well as that "special attention shall be paid to training of all subjects of the integrated protection and rescue system in order for the staff to be able to provide adequate assistance and protection for children, old persons and persons with disabilities" is not mentioned in the Report. However, the Action Plan for the Implementation of the National Strategy of Protection and Rescue in Emergency Situations and the Plan of Protection and Rescue in Emergency Situations in accordance with the Law, have not been adopted. Therefore, neither the defined procedures, competence, responsibility for evacuating, protecting and sheltering persons with disabilities nor detailed regulations on forms of training, curriculum and programmes for training the members of the civil protection including PWDs do not exist.

¹² "Official Gazette of RS", No. 111/2009, 92/2011 and 93/2012

¹³ "Official Gazette of RS", No. 86/2011

The lack of precise measures in relation to PWDs was especially visible as a problem when Serbia was bombed in 1999, when PWDs stayed in their apartments because they were not able to use shelters, and in May 2014 during floods when none of reception centers had data if PWDs were placed there and what their needs were.

Proposed questions:

1. When is the State going to adopt relevant bylaws, plans and measures in order to enable implementation of existing legislation related to evacuation plans and other emergency measures as prescribed in paragraphs 146-153 of the State report?
2. Are persons with disabilities and their representative organizations going to be involved and consulted in the development of these plans and measures?

Article 12. Equal recognition before the law

The Republic of Serbia has one of the most restrictive systems of guardianship in the World. A person shall lose the power to make decisions in all spheres of life by being placed under guardianship. The consequences of denying legal capacity are immeasurable. Almost all rights are denied to a person only by starting a procedure.

The Family Law¹⁴ defining one's financial situation for denying legal capacity rests on a discriminatory premise - which persons with disabilities are not able to take care of their own rights and interests "due to a disease or mental and physical developmental disabilities".

The deprivation of legal capacity is fully based on the medical expertise which is completely contrary to the social model of disability (represented in CRPD).

The Initial Report does not mention that the institute of prolonging the parental right is equally important. Considering that a person over whom the parental right has been prolonged has the legal status of a minor, one can conclude that their status is equal in everything with the status of those who are entirely deprived of legal capacity.

Even though the Initial Report of the Republic of Serbia reflects on the problems in initiating the reforms of the guardianship system (p. 155-156), it is unclear what measures the competent ministry has undertaken (p. 159) considering the fact that the situation in this field has been deteriorating constantly. Acting as recommended by CPT (p. 44) resulted in immense consequences in practice. MDRI-S was contacted by a great number of families who testified on the practice of social welfare centers to condition placing in home, using the services of daily care and realization of other rights from the field of social protection on the deprivation of legal capacity, even though the legislative framework for this does not exist.

The data of the Social Protection Institute of the Republic of Serbia¹⁵ indicate a concerning tendency of increase in the number of people under guardianship. The number of persons under guardianship increased for 33,9% during 2011, that is, for 20% during 2012. On the other hand, there are a very small number of proceedings initiated to return legal capacity. According to the research "Legal Capacity as a Human Right" this percentage is 0,2%.

¹⁴ Article 146. and 147. ("Off. Gazette of RS", no. 18/2005, 72/2011 6/2015

¹⁵ http://www.zavodsz.gov.rs/index.php?option=com_content&task=view&id=160&Itemid=157

The greatest disadvantage in Serbia currently is the lack of an alternative for the deprivation of legal capacity. The partial deprivation of legal capacity, which is less restrictive, is used very rarely in practice.

The existing legal framework in the fields of deprivation of legal capacity and guardianship over adults is unsatisfactory even after the Law on Extra-Judicial Proceedings¹⁶ was amended. It is also contrary to the obligations the Republic of Serbia has on the basis of the Convention of the Rights of Persons with Disabilities, other international documents on human rights and national anti-discrimination legislation.

In addition to this problem, persons with disabilities who are not able to sign themselves due to their disabilities face a problem of using a facsimile signature in legal communication. Two types of facsimile signatures are mostly used: the print one and the one with a handwritten signature but the one with printed letters is not recognized when concluding a contract and in financial business. Considering that there are still no regulations regulating this area, every legal entity and institution is free to regulate the issue of a facsimile signature in their own manner. As a result, in the inconsistent practice¹⁷, thus persons with disabilities are discriminated in legal communication.

Proposed questions:

1. How do you explain the drastic increase in the number of people under guardianship in 2011?
2. What changes of the Family Law are planned in order to replace guardianship with support system in decision-making, and take measures related to the courts to stop the practice of complete deprivation of legal capacity in order to provide support to PWD, on the principles of respecting human rights on the equal legal basis with others?
3. When will the Law on the use of facsimile be adopted, so persons with disabilities who are not able personally to sign different documents due to their disabilities in order to provide equal status of PWD in legal transactions?

Article 13. Access to justice

The Initial Report reflects on the implementation of Article 13 of the Convention - Access to justice in paragraphs 161-181 by describing the provisions of Civil Procedure Law - CPL¹⁸ and Criminal Procedure Code - CPC¹⁹ referring to persons with disabilities. In addition to this, the Initial Report focuses on data on the number of court proceedings on the basis of discrimination against persons with disabilities, the number of accessible courts, as well as accessibility of penal-correctional facilities and treatment of persons with disabilities by police officers. However, it still does not provide equal access to justice for persons with disabilities.

The implementation and protection of the rights of persons with disabilities before judicial and other authorities are impeded due to architectural and communication barriers. Even though the

¹⁶ Article 32-44. ("Off. Gazette of SRS", no. 25/82 and 48/88. 46/95 85/2012, 45/2013 55/2014 6/2015)

¹⁷ "Monitoring of Individual Experiences of Persons with Disabilities in the Republic of Serbia", Center for Society Orientation, Disability Rights Promotion International, Belgrade, June 2013

¹⁸ Civil Procedure Law, "Official Gazette of RS", 72/2011

¹⁹ Criminal Procedure Code, "Official Gazette of SRY", 70/2001, 68/2002 and "Official Gazette of RS", . 58/2004, 85/2005, 115/2005, 85/2005, 49/2007, 20/2009, 72/2009 and 76/2010.

Constitution of the Republic of Serbia (2006) contains the provision in Article 21²⁰ on the equality of all citizens before the Law, this equality is not guaranteed to persons with disabilities too. Only 36 out of 164 courthouses in the Republic of Serbia have a wheelchairs access²¹. However, there is not a single court with an accessible toilet or tactile paths for blind persons. In addition to this, there is not a single legal provision that guarantees a person with a physical disability the right to be heard in an accessible place. This right is left for a court to decide which the court can but does not have to accept.²² If a party to the proceedings insists that the trial should be held in a courtroom on the ground floor, the court shall postpone hearings for a few months until the conditions for this are fulfilled.

The Civil Procedure Law,²³ whose provisions are applied in all civil proceedings, does not contain provisions guaranteeing persons with disabilities equal status and equal rights in relation to other citizens. On the contrary, this law prescribes that a witness who has hearing and/or speech impairments must be heard in a written form. The right to a Sign Language interpreter is prescribed only if a hearing cannot be conducted in written manner.

The Law on the Use of Sign Language²⁴ in Article 6 defines that a deaf person has a right to use the services of a court interpreter if he/she is not able to communicate in another manner, that is, if he/she is illiterate or cannot read lips. It is not known who shall estimate this. The Law states that the services of a court interpreter are used before a public service, in political life, in educational institutions and with an employer. It is a very common practice that persons with hearing and/or speech impairments are heard without an interpreter or that the trial is postponed for a few months until a Sign Language interpreter (there are only 9 of them in Serbia) is provided.

Article 2 of the Civil Procedure Law prescribes that parties have the right to legal, equal and fair protection of their rights. If persons with disabilities asking protection of their rights must first deal with the right to access the court or for the court to access them, if they have a hearing and/or speech impairment, they could not understand what it is talked about before the court, if they have a visual impairment they should find out what it is written in the court case, then we cannot talk about legality, equality and fairness guaranteed by this Law.

For almost two years the Law on Free Legal Aid, prepared by the Ministry of Justice, has been in a form of Draft.²⁵ both non-governmental organizations and legal clinics are prescribed as legal service providers by the draft of this Law, if they are specially registered for this. Social welfare centers, which are already burdened with too many tasks they perform, have been chosen to be an organ which shall decide who has the right to free representation. The users of free legal aid are intended to be exclusively those persons who have realized the right to social protection services or financial allowances from the social protection domain. Therefore, the right to free legal aid is unnecessarily connected and conditioned to the realization of rights from the social protection domain. Beside that, the manner in which free legal aid shall be financed is not clear.

²⁰ Adopted on September 30th, 2006

²¹ The Research of the organization "...OUT OF CIRCLE – Belgrade", "Courts in Serbia", realized in 2014

²² Civil Procedure Law, "Official Gazette of RS", 125/04, Article 109.

²³ Civil Procedure Law, "Official Gazette of RS", 72/2011, Article 256 .

²⁴ Adopted in March 2015

²⁵ <http://www.mpravde.gov.rs/sekcija/53/radne-verzije-propisa.php>

Proposed questions:

1. Is State planning and when to amend the provisions of Civil Procedure Law and Criminal Procedure Code in order to provide persons with a hearing impairment with the obligatory use of a Sign Language interpreter before judicial and other authorities?
2. What kind of procedures are provided for persons with disabilities, regardless of the disability, to overcome the disability related barriers in accessing the courthouses, prosecution buildings and police stations, enabling persons with disabilities access to justice as well as the right to legal, equal and fair protection of their rights?

Article 19. Living independently and being included in the community

In paragraphs 223-225 and paragraph 228 of the Initial Report on the implementation of the Convention information provided are correct but incomplete. The system of social services for persons with disabilities still face numerous challenges of which the most important are the following: 1) financing the social services, 2) the plurality of services and providers, 3) the slow process of transformation of institutions into services in the community and 4) services are not fully developed on the principles of social inclusion (accessibility, participation, and equality).

Living in the community for adult PWDs is difficult to a great extent due to the inadequate support system for their work engagement/employment and the system of deprivation of legal capacity. Even though a level of institutionalization of children is one of the lowest ones in Europe (paragraph 229 and 230), there is still about 60% of children in residential accommodation who are children with developmental disabilities, while they make only 9,1% of children placed within families. Four out of five institutions for accommodation of children with developmental disabilities have approximately 350 beneficiaries²⁶ and almost one half of beneficiaries are adult PWDs. There are waiting lists for accommodation of children in institutions which indicates the underdevelopment of local support services for keeping children within families. Money is still invested in institutions even through the projects supporting the process of deinstitutionalization, aiming the means at empowering the capacities of the existing great institutions for providing alternative services which increases the risk of replicating the institutional culture to other forms of services while local services are being closed due to the lack of measures to provide their sustainability.

As older PWD are concerned, the one with intellectual disabilities, as already stated, mostly are accommodated in institutions for accommodation of children with developmental disabilities. There is only one residential institution in Serbia for all physically disabled adults²⁷ with capacities of 80 places situated in Belgrade, and one in south of Serbia which accommodate elderly person and persons with disability, capacity around 90 persons for both group of users. Although it looks like a good situation, it actually is not, because as there are not social services for adults and older physically disabled persons in the communities, they are often accommodated in homes for elderly persons, regardless of their age and, in institutions for accommodation of children with developmental disabilities or stay without any social service.

Serbia does not have a comprehensive strategy of deinstitutionalization (DI). Currently the project "Improvement of the beneficiaries of residential institutions with intellectual and mental disabilities, by creating conditions for their inclusion in society and the local community" is

²⁶ Law on Social Protection, Article 54

²⁷ <http://www.domzaosi.org.rs/>

implementing in cooperation with the Ministry of Labor, Employment, Veteran and Social Affairs and the Ministry of Health of the Republic of Serbia and funded by the European Union pre-accession IPA funds. The project includes 11 residential social care institutions for persons with intellectual and mental disabilities and five specialty psychiatric hospitals in Serbia. The aim is to create elements for development of DI strategy.

In Paragraph 227 of the Initial Report it is stated that since 2001 the personal assistance service has been developed through pilot projects supported mostly by foreign donors in a greater number of towns in Serbia, but it is important to specify that initiating, providing funding from donors, developing and providing the service were realized by organizations of PWDs themselves²⁸.

Even though the PA service, that is, a possibility of choosing a PA independently, making a decision on the type, time and manner of service provision, is a necessary precondition for independent living of PWDs, the PA service is difficult to be provided due to insufficient financial means of local communities (paragraph 223) as well as due to not recognizing the service in the system to which beneficiaries should be referred by SWC²⁹, the insufficient knowledge of the standards of the quality of service, contents and principles on the basis of which the service is provided³⁰, the lack of the service needs assessment system in SWC, possible service providers and persons with disabilities themselves who require the service, all of which is stated in the findings of various researches.³¹ As a result, there are great differences in contents and quality of the PA service³² which beneficiaries acquire even where it has been apparently provided. LSP, within the group of support services for independent living, also prescribes the supported living service but providing this service also face the unregulated transfer of means for this service due to the fact that the means intended for accommodating beneficiaries in institutions are not redirected either to a beneficiary or a service provider of supported living even though the beneficiary do not live in an institution anymore.³³ These data also state that the means which do not reach final beneficiaries but stay "trapped" in institutions are spent unconditionally.

The plurality of service providers (paragraph 224) has not been realized in Serbia yet which, among other things, influence a relatively small number of services at the local level. The plurality of service providers and equalization of conditions for providers from the public, private and civil sector through the licensing processes and determining minimum standards for services in the community is difficult to be provided in practice. One of the criteria for financing when the Ministry finances the service through projects is also sustainability of the service which especially affects service providers in poor areas which do not have means to provide sustainability of the service after the Ministry stops financing it. Therefore, in 37 local communities of Serbia there are no social services financed from the budget by local self-authorities.³⁴ Since 2009 the By-law on the Use of Unconditional Transfers which should regulate this issue in a more detailed manner has not been adopted yet. Considering the fact that

²⁸ Center for Independent living of Serbia, <http://www.cilrbija.org>

²⁹ The data of SPIRS and Work Reports of CIL, 2011 available at:

http://www.zavodsz.gov.rs/index.php?option=com_content&task=view&id=245&Itemid=245

³⁰ Defined by the Guidebook on Minimal Standards of Services?, "Official Gazette of RS", No. 42/2013

³¹ "Holistic Report: Monitor your Rights!", Center for Society Orientation - Disability Rights Promotion International Regional Center for Monitoring the Rights of Persons with Disabilities for Europe (2013)

³² The Research of CILPWD Serbia 2013 and "Holistic Report: Monitor your Rights!", COD

³³ The data of the Association for Promotion of Inclusion of Serbia

³⁴ <http://www.zavodsz.gov.rs>

a significant number of municipalities in Serbia are characterized as extremely underdeveloped and devastated³⁵ inclusion and realization of rights of PWDs have become connected to a place of residence as a result of which a great number of PWDs in undeveloped municipalities are in an unequal position.

Centers for Social Work do not register the beneficiaries' needs for services that do not exist at currently in the local community but only needs for existing ones that are of limited spectrum which complicate the planned approach to financing services and setting priorities in the community. According to Law on SP, Centers for Social Work have also a right to provide services when these services do not exist in the community which leads to a conflict of interest: because SWCs refer beneficiaries to services they provide but not for the development of new services. These data are also supported by the results of the research³⁶ according to which 72% of interviewees do not have access to a needed service support, 42% of interviewees do not have a possibility to influence decision making and a choice, quality and scope of a service they will obtain.

The process of licensing CSO showed to be very difficult and with certain requirements of structural standards which can be fulfilled only by the public system organizations. The situation deteriorated by adopting the Labor Law³⁷ and the provision that in providing social services one can engage professional workers only on the basis of the employment contract which is not necessary for certain services. In addition to this, the financiers of the service do not approve these means. In entire Serbia only 65 licenses were issued and 20 of them were issued to civil society organizations.³⁸

As for the expansion of services through different projects (paragraph 228), it is correct that the number of services has expanded but the number of beneficiaries whose needs Social Welfare Centers should estimate referring them to service providers has decreased. In 2011, the number of beneficiaries of SWC, who are at the same time persons with disabilities, reduced. Conversely, in the previous seven year period, a tendency for the number of persons, children and young persons with disabilities registered in SWC to grow, can be perceived. The function of SWC is also to provide a free physical and information approach to beneficiaries. The report of the Republic Institution for Social Work on a level of accessibility of SWC³⁹ states that approximately only 35,3% of SWC has provided physical accessibility. In 49% of SWC there is no a single brochure on the rights and services of SWC intended for beneficiaries. Information on the services of SWC accessible to blind persons exist only in 7,8% of SWC.

Proposed questions:

1. When it is expected that comprehensive deinstitutionalization strategy will be adopted?
2. What steps are being taken to deinstitutionalize persons with disabilities so far and how much money is allocated from State budget for it?
3. Is State planning to make changes in the Labor Law and Law on Social Protection to enable service provision in the less developed local communities and would

³⁵ In 2014 25,6% of municipalities belonged to the group of underdeveloped units of local self-authorities <http://www.regionalnirazvoj.gov.rs/Lat/ShowNARRFolder.aspx?mi=171>

³⁶ Holistic Report: Monitor your Rights!", Center for Society Orientation - Disability Rights Promotion International Regional Center for Monitoring the Rights of Persons with Disabilities for Europe (2013)

³⁷ "Official Gazette of RS" No.24/05, 61/05, 54/09, 32/13 and 75/14

³⁸ The data of the Ministry of Labour, Employment, Social and Veteran Policy

³⁹ The data of MLES

representatives from organizations of PWD be included in that process according to the Article 4. of CRPD?

4. What measures have been taken to build capacities of local self-authorities, for provision, monitoring and evaluation of social services ?
5. What measures are taken to execut reallocation of funds from institutions to community-based services after users are leaving the institutional forms of care?
6. How the government plans to ensure the equal treatment of different service providers?

Article 20. Personal mobility

Primarily, necessary orthopedic supplies are crucial to provide personal mobility of PWDs. Issues related to provision of medical-technical aids that are mentioned in the Initial State Report, Paragraphs 235 - 280 of were discussed in this report in Article 25. as an issue important for personal mobility. In addition to this, support services have a great role in providing personal mobility (for instance, a person with a visual impairment), which were commented in Article 19.

In paragraph 231 of the State report it is said that the Law on Traffic Safety provides training of drivers with disabilities in specially adapted vehicles. However, assessments of medical specialists in the issuance of medical certificates which are preconditions that the person could take the driving test, is not uniform in all municipalities. They do not take into account new technologies, as well as individual opportunities for persons with disabilities, but focus exclusively on the medical diagnosis. This means that some people with disabilities are prevented to obtain a driver's license because of their diagnosis, although there are technological capabilities to manage an adapted vehicle.

Proposed question:

1. What will the state do about the unification of the criteria for assessing the possibilities for people with disabilities to operate the vehicle, taking into account modern technology and use individualized approach?

Article 24. Education

The Initial Report provides the review (263-274) of the normative framework for improving and conducting inclusive education in the Republic of Serbia which has been improved significantly in the previous few years, stating the principle of equality and non-discrimination on the ground of disability. Legislative framework in the field of educational rights of persons with disabilities to education, are prescribed by the Constitution of Serbia and 11 other laws related to antidiscrimination and education⁴⁰ out of which 4 were adopted prior to signing the Convention.⁴¹

⁴⁰ Law on prohibition of discrimination, Law on preventing discrimination against persons with disabilities, Law on equality of genders, Law on basics of system of education and upbringing, Law on pre-school education and upbringing, Law on social care and children, Law on primary school, Law on secondary school (the last three adopted prior to signing the Convention), Law on textbooks and other teaching means, Law on high education and Law on pupils' and students' standard.

⁴¹ See the Report on Compliance of Legislative and Institutional Framework in the Republic of Serbia with the UN Convention on the Rights of Persons with Disabilities and Recommendations for Harmonization, CIL Serbia and ACED Bosnia and Herzegovina, Belgrade 2014, p. 31-32

They provides mechanisms, methods, manner of adjustments and individualization of teaching, adjustment of school environment, additional services supporting education and other instruments of inclusive education, but through the defined measures, obliged to implement them and language and terminology used throughout of legislation, there is still a tendency for exclusion of pupils and students within and from the education system, even stronger in the newest law and by laws changes.

There are 41 schools in Serbia for children with impediments in development, out of which 23 are primary schools with pre-school departments, 17 schools for primary and secondary education with preschool departments, and 1 secondary school. From the overall number of schools, 5 are for education of deaf children, 4 are SOSO with dormitories, 2 primary schools for students with sight impairment and one secondary school. For most profiles in secondary schools, them being three-year (vocational) schools, there is no access to high education, which is recognized as one of reasons of lack of deaf people in the system of high education.⁴² Both at 8 state and 10 private universities the total number of students with disabilities is less than 500. There are less than 5 students with autism or mental disabilities and less than 20 deaf students at all universities. The structure of high school students in the mainstream educational system is pretty similar.

However, the implementation of education laws and inclusive education practice are still much undeveloped. The data on children with developmental disabilities in Serbia are not updated and available and micro data on the status of children with developmental disabilities in the educational system do not exist. According to the last data, about 7.000 children in both systems are educated on the basis of individualized education plan but this is not an indicator of the total number of children with disabilities in the educational system. Since, according the Law, parents are those making the final decision on which school their children enter, schools cannot refuse any child to enter it (even in the case of structural or HR incapacity or the lack of the assistance), but mainstream educational institutions often advice parents to choose special school. In terms of access to education, the obvious challenges are architectural inaccessibility of schools and school environment, the lack of transportation, inaccessible books and teaching equipment which make difficult or prevent attending lessons. The current Proposal of the Law on Books and Teaching Aids has tried to improve this field by defining books and teaching aids in an accessible format (audio format, larger letters, Braille alphabet) but at the same time defining special books for children with developmental disabilities with a shorter content and achievement standards represents a risk of this Law. Teachers in regular schools are not educated to work with children with developmental disabilities. When a child goes to a regular school, a smaller number of classes and shortening the time they spend at school are often proposed. As reasons, they state the adaptation period, the child's inability to attend lessons, etc.

All educational institutions see assistance for a student (personal escort or assistant) as the most important precondition for a child to stay in kindergarten/at school. If assistance is not provided, they are not being rejected, since it is against the Law, but they are being subtly suggested to enter other mainstream or special school. The Interdepartmental Commission at the municipal level is competent for an opinion on additional educational, health and social support to a student. Financing the personal escort for child or assistants for adults is a responsibility of local authorities, while the Ministry of Education, Science and Technological Development for the service of a pedagogical assistant. Even though they have been reformed, Interdepartmental

⁴² Op. Cit. p. 37

commissions mostly operate on the basis of the old medical model, thus the expected change in approaching a child and family has not happened. Financing the service has not been resolved and for now it has been provided through projects or by family. During classes, a teacher does not communicate or insufficiently communicate/involve a child in classes. Even though he/she works with a child, the pedagogical assistant is not a member of the team for additional support to a child (IEP team) and there is no exchange of information and joint planning of support. All of this results in inadequate education of children with developmental disabilities.

The traditional and outdated manner of teaching and assessment of students' achievements are the greatest obstacles in planning differentiated lessons and individualization through the regular preparations for lessons. Individualization and individualized education plans are interpreted and planned to require individual work (one on one) and not as support to inclusion and participation in teaching and school life. The written IEPs are papers for educational counselors/inspectors and rarely serve to teachers and parents for improving education of a child, thus children for whom IEPs have been created still do not show progress and increasingly lag behind in lessons. Due to the lack of adequate adaptation of access, methods, material, form of work for a great number of children with developmental disabilities IEP with changed special standards, the requirements and expectations are reduced. The fact that this happens at the very beginning of education, when they still have not met a child, is especially worrying.

Since the Law on basic system of education was adopted more than 15000 teachers and pedagogic workers were trained on inclusive education within the programs of the professional skill improvement both in Serbian and minority languages. This topic is a part of higher education curricula for pre-school and school teachers, but except ones organized by DPOs or organization for PWDs we have no data whether CRPD is mentioned or not. Generally, formal higher education programs designers for future teachers are not aware almost at all of the substance of the Article 24.

Recognizing a parent as an important resource and by laws changes in the planning process and providing support to a child are still a serious challenge. Parents do not receive elementary information relating to the child's education in an educational institution. In terms of inclusion in planning support for a child, instead of the team work, continuous communication and exchanging information, parents participate only formally. Participation of a child in the planning process of support and assessment of what was achieved is left out even when a child is of older school age and does not have difficulties in verbal expression. Generally, this refers to most of adult persons who are in the child's environment.

The fact that children with developmental disabilities who live in residential institutions are excluded from education should be emphasized. 70% of children of school age do not attend school. Not one of children who do attend it is included in a regular school.

Deaf children are mostly in the special school system with dormitories and limited possibility of communication with hearing community except their families. There is one secondary special school where deaf children are along with other students with disabilities attending education at separate facilities. They still mostly have a choice for being three or four grade engineers or mechanics, hair dressers or artists. Lectures giving or interpreting in sign language is obliged by the Law of the Usage of Sign Language adopted this years. There are no sign language speakers among university teacher except several passive ones at the Faculty for the Special Education and Rehabilitation who opposed that option for decades, insisting on oral speech, leap reading or so called total method.

The employment of teachers with disability is already supported through the Law on professional rehabilitation and employment of PWD, but regulations of the Law on basics of system of education and upbringing, prescribed precedence_for_the employment of teachers who do not have the full number of hours, in practice prevent employment PVD.

Proposed questions:

1. Is State planning and when, to redesign curricula and expected outcomes for those working within educational system. teachers in regular schools and students at all level to work with both children with developmental and other disabilities, and about the right on education for all children and adults and regarding the same expectation for each person to contribute to the society after finishing the chosen education?
2. Which measures the state will take to include children with disabilities using the residential care to educational system?
3. What steps the State will make to synchronize the Law on Professional Rehabilitation and Employment of Persons with Disabilities and Law on basics of system of education and upbringing, to provide the precondition for teachers with disabilities at all levels to be employed as teachers and lecturers within educational system?

Article 25. Health

The Initial Report deal with health care in paragraphs 137-139 where the basic principle of LHC⁴³ were stated and paragraphs 275-280 where only goals and measures from the Strategy for Improving the Position of Persons with Disabilities were stated. All data are correct but incomplete. They do not point to challenges persons with disabilities face in the field of health care. Legislation in this field contains anti-discrimination provisions referring also to the type of disability. The most of legislation is harmonized with the Convention but the terminology referring to persons with disabilities is not equalized, thus, some parts mention persons with mentally insufficient development and other disabled persons or name persons with disabilities by a type of diagnosis.

One of the big problem persons with disabilities face in the realization of health care is architectural, communication, technical inaccessibility of health services and the lack of trained staff in health institutions for work with PWD. In addition to this, in terms of information, campaigns intended for prevention, reproductive health, fight against HIV/AIDS, are in most cases completely inaccessible to persons with sensory disabilities.

The analysis of monitoring the individual experiences ⁴⁴ indicates that the field of health and rehabilitation is one of the most important ones for the surveyed persons with disabilities. The total of 45% of the surveyed PWD experienced difficulties in using health services and rehabilitation due to inaccessibility or restrictive criteria for realizing certain rights in the field of health care. Discrimination in this field was experienced by 28,33% of the surveyed and 43,33% of the surveyed experienced the disrespect of differences. Realizing for example the right to the protection of reproductive health, which is explained in analysis of Article 6.

⁴³ Law on Health Care ("Official Gazette of RS" No. 85/2005, 88/2005 - amended, 107/2005 - amended, 72/2009, 111/2009, 121/2012, 104/2013 and 108/2014)

⁴⁴ "Monitoring of Individual Experiences of Persons with Disabilities in the Republic of Serbia", Center for Society Orientation, Disability Rights Promotion International, Belgrade, June 2013

As far as the behavior of medical workers is concerned, 80% of the surveyed PWD mentioned the cases when they speak to an attendant or personal assistant of a person who asks for a health service which violates the principles of confidentiality, independence and dignity of persons with disabilities. In addition to this, they emphasized that general practitioners do not know the characteristics of certain types of disabilities and use the inadequate terminology.

It is also important to point to the problems with scheduling doctor examinations. In numerous Health Centers a specialist follow-up cannot be scheduled by phone but only personally. After a patient with a physical disability phoned and pointed out that she as a person with a disability was not able to come and schedule an examination, she was told to send someone to do it for her by which the independence principle of persons with disabilities is violated significantly. For persons with a sensory disability, deaf and hard-of-hearing persons scheduling by SMS or in some other accessible manner is not provided in most of health care services.

The analysis of the legislative framework in the field of health care of persons with disabilities and its implementation in practice⁴⁵ has shown that there is a great gap between these two things. In terms of regulations, the Rulebook on Medical Rehabilitation in Stationary Health Care Institutions Specialized for Rehabilitation,⁴⁶ Rulebook on Medical and Technical Aids which are Provided from the Funds for Compulsory Health Insurance,⁴⁷ the List of Medications Available on Prescription are criticized the most.

It was determined that a person had to be hospitalized previously in order to realize the right to medical rehabilitation.

Providing medical-technical aids is often a great challenge for persons with disabilities due to a complicated and restrictive procedure for realizing this form of rights followed by prolongation of deadlines for change and repair of an aid. In addition to this, the means for these needs allocated by the Fund of Health Insurance are insufficient, thus, persons with disabilities obtain aids of poorer quality and could not stand a shelf life prescribed.

Proposed questions:

1. Which measures State will take to improve an approach to health care services for persons with disabilities, from physical/architectural accessibility to facilities and adequate adaptations of medical equipment and procedures to finding alternative manners of communications for persons with sensor disabilities.
2. Is State going to provide additional training for medical staff for work with persons with disabilities, including raising awareness of medical workers of the rights of persons with disabilities and in which time frame?
3. What measures will the state take to eliminate those provisions in the Ordinance on medical rehabilitation in health institutions specializing in rehabilitation that people with different

⁴⁵ The abstract from the Report on the Harmonization of Legislative and Institutional Framework in the Republic of Serbia with the UN Convention on the Rights of Persons with Disabilities and Recommendations for Harmonization, Center for Independent Living of Persons with Disabilities Serbia, 2014

⁴⁶ "Official Gazette of RS", No. 47/2008, 69/2008, 81/2010, 103/2010, 15/2011 and 48/2012

⁴⁷ "Official Gazette of RS ", No. 52/2012, 62/2012 - amended., 73/2012 - amended., 1/2013 and 7/2013 - amended

diagnoses are treated differently when it comes to the exercise of the right to medical rehabilitation?

4. What measures will State take to eliminate discriminatory provisions stated in By-law on the medical - technical appliances which are funded by the compulsory health insurance in which the employment / unemployment and age of users are set as criteria for exercising the right to orthopedic aids?

Article 27. Work and employment

In the Initial Report the implementation of Article 27 of the Convention is presented in two units: in paragraphs 131-136 (analyzed in Article 9 Accessibility) and paragraphs 293-314 which directly concern Article 27 of the Convention.

According to the assessment presented in the Strategy for Improving the Position of Persons with Disabilities, 330.000 persons with disabilities of working age live in the Republic of Serbia; 168.227 of them belong to working population. On the basis of the Report on fulfillment of Obligation to Employ Persons with Disabilities, the number of employed persons is on the increase since the Law on Professional Rehabilitation and Employment of the Persons with Disabilities - LPREPWDs was adopted. It increased from 10.326 persons during 2010 to 11.467 persons during 2012, which is only 4% of persons who are of working age. Even though the increase exists, it is still not relevant in relation to the total number of persons with disabilities of working age. The structure among both employed and non employed persons with disabilities indicates the substantially unfavorable status of women with disabilities in the labor market. For example in 2013 there were 20.666 unemployed persons with disabilities on the records of NSZ⁴⁸, out of which 67,0% men and 33,0% women.

The total of 89% of the representatives of civil society organizations advocating PWDs consider that PWDs do not have equal opportunities to become employed in the open labor market, meaning that the implementation of the law to date does not provide real accessibility of the right to work for persons with disabilities.⁴⁹ As main reasons for this, the representatives of OPWDs see prejudice, stereotypes and generally discrimination of PWDs as workers as well as the unfavorable educational structure.⁵⁰

The problem of discrimination against PWDs in the labor market is not mentioned in the Initial Report. Researches indicate that one third of employed persons with disabilities experienced the violation of principles of participation, inclusion and accessibility (35%) as well as discrimination (30%) which is most often reflected through relations with colleagues and lack of understanding by employers.⁵¹ The associations of deaf and hard-of-hearing persons especially emphasize that during job interviews employers do not hire a Sign language interpreter but a deaf person himself/herself must do it. Even though the Law on Serbian Sign Language in 2015⁵² formally enabled using a Sign language interpreter, this right is questioned by Article 6 of the

⁴⁸ National Employment Service, March 2013.

⁴⁹ Report on the Harmonization of Legislative and Institutional Framework in the Republic of Serbia with the UN Convention on the Rights of Persons with Disabilities and Recommendations for Harmonization, Center for Independent Living of Persons with Disabilities Serbia, 2014.

⁵⁰ Ibid.

⁵¹ Holistic Report 2013: Monitor your Rights, Monitoring of the rights of persons with disabilities in the Republic of Serbia, Center for Society Orientation

⁵² "Official Gazette of RS", No. 38/15

Law because this obligation exists only for those persons who are illiterate or cannot read lips. The remaining question is which employer would hire an illiterate person and who assesses if a deaf person can read lips or not.

The Initial Report does not mention that not all persons with disabilities have the right to work on the open market, neither under general nor under special conditions. The right to work is not recognized to persons with disabilities who were deprived of legal capacity and who have the third level of working capacity assessed meaning that they could be only engaged in Working Ceres as part of their rehabilitation process.

Even though the Initial Report (paragraph 296) mentions that the **assessment of legal capacity** includes medical, social and other criteria, the medical model and the assessment of "incapacity" based primarily on medical documentation are still dominant. As stated, by the assessment of the third level of legal capacity, which represents extra-judicial proceedings, this person shall be deprived of the right to work. Even though this is the deprivation of one of fundamental human rights, such decision shall be made by the Commission established by NES. About 4% of persons who have their legal capacity assessed have the third level of legal capacity although it could be assumed that the number of persons to whom the third level of legal capacity would be estimated is much greater in the population of persons with disabilities. The legal capacity assessment reports do not contain sufficiently concrete information on what a person can do independently and in which domains he/she needs support. In addition to this, there is no prescribed methodology for determining legal capacity, thus there are great differences in the work of different commissions for the assessment of legal capacity. Global capacity shall be determined at the general level and not for specific tasks.⁵³ Within the monitoring of employment⁵⁴ of persons with disabilities in practice through individual experiences it has been noticed that system decisions are not implemented consistently and always (from the fact that the commission for the assessment of legal capacity does not meet as determined to the belief that it is a routine assessment).

Until 2013 employers who did not fulfill the employment obligation were sanctioned by paying penalties. This mechanism was cancelled by the amendments of the Law on Professional Rehabilitation and Employment of Persons with Disabilities. However, there is still the obligation that an employer, who does not employ the prescribed number of PWDs, shall also fulfill the employment obligation by payment to the dedicated Budget fund in the amount of average salary in Serbia for each prescribed number of PWDs. There is a similar situation in terms of Paragraph 303 because by the Labor Law from 2009, an employer was obliged to provide performing tasks according to the remaining working capacity for the persons who were injured during work; an employer could cancel the employment contract to an employee only if the employee refuses to accept this job. According to the amendments to the Law made in 2014, paragraph 2, if an employer cannot provide an adequate job in accordance with the remaining working capacity for an employee, the employee shall be considered redundant and the employer can terminate the employment contract. In this sense, it is necessary to return the provision of the Labor Law 2009 to which NOOIS also pointed by submitting the request to the Constitutional Court of Serbia for the assessment of constitutionality of this provision. This provision represents a direct violation of Article 27 of the Convention.

⁵³ "The Universality of Rights in Practice: the Analysis of the Implementation of United Nation Convention on the Rights of Persons with Disabilities in relation to Persons with Intellectual Impairments in Serbia", July 2012, Initiative for the Rights of Persons with Intellectual Disabilities MDRI-S and People in Need.

⁵⁴ Employment of Persons with Disabilities, 2012. Center for Society Orientation, Individual Experiences of Persons with Disabilities at the Local Level, page 84

In the Initial Report (paragraph 135, paragraph 300) as special forms of employment and work engagement of persons with disabilities. ZPRZOSI introduces new forms of organization such as: company for professional rehabilitation and employment of persons with disabilities previously called sheltered workshops); social enterprises and social organizations and Work Center who implement activities and professional rehabilitation measures as well as the existence of various incentives for employment (paragraph 295) are described. Even though the established standards are adequate, at this moment there is no independent assessment of fulfillment of these standards or efficiency and effectiveness of these measures in terms of including persons with disabilities in the open labor market. In companies for professional rehabilitation and employment of PWD State co-finances 50% of the wage for PWD.

Even though it is mentioned that the greatest number of workplaces are inaccessible to persons with disabilities (paragraph 135), this is relative in the same part of the Report by stating that adjustment is not always necessary and that this problem can also be overcome during employment. This attitude of the state is not entirely in accordance with the Convention which prescribes the obligation of providing reasonable accommodation to a person with a disability in the workplace. This results in the employment mostly of PWDs who do not need or need minimal support in the workplace while PWDs with a greater level of a physical impairment and greater need of support are still unemployed.⁵⁵

The Initial Report does not cover the provisions of the Convention referring to establishment of a trade union and employment of persons with disabilities in the public sector. In the current context in Serbia persons with disabilities cannot establish their representative trade union in the open labor market. Organizing the trade union of persons with disabilities is currently disabled since the level of employment of persons with disabilities in the open labor market is low and it is required by the Labor Law for the trade union to include at least 15% of employees by an employer.

The importance of the media in forming attitudes is inevitable. In the research of monitoring the media⁵⁶ conducted in 2013, work and employment is in the first place in terms of the number of articles referring to discrimination in the process of work and employment.

Proposed questions:

1. Which affirmative action measures the State has taken to promote the employment of persons with disabilities in the open labor market, public sector and greater inclusion of women with disabilities and what impact such measures have had?
2. Is State going to change LL 2014, Article 102, and Paragraph 2 and return the rights of persons with disabilities whose disabilities are a consequence of an injury at work at the level of LL 2009?
3. Is State going to reform a procedure for the assessment of legal capacity, redirect the mandate of the commission to refocus on the assessment of the necessary support and adjustment for a disabled person that is required in order to perform a particular job?

⁵⁵ CIL Research "Implementation of LPREPWD" 2010, Belgrade

⁵⁶ Report Monitoring of the Media - Monitoring of the implementation of the UN Convention on the Rights of Persons with Disabilities, Center for Society Orientation in cooperation with the International Promotion of Persons with Disabilities D.R.P.I. 2013.

<<http://www.disabilitymonitor-see.org/index.php?limitstart=10>>

4. Is State going to perform independent evaluation of the active disability employment measure and there effects on the PWD employment policy?

Article 28. Adequate standard of living and social protection

Article 28 of CRPD is analyzed in paragraphs 315-326, as well as paragraphs 221 and 222 of the Initial report. The data in the Initial Report are adequate to the current situation in Serbia. Law on Social Protection - LSO⁵⁷ prescribes that Social Protection is realized in two ways: provision of tangible (financial) benefits and social services support.

The issue of social services support and its provision is analyzed in this Report under other articles of CHRPD, like articles 6; 7; 19; 24; 25 and 28.

When it comes to the provision of financial benefits, however, there are few gaps and challenges related to Article 24, namely:

- The procedures in accessing the right to social financial support are very complicated and demanding for all citizens, but especially for persons with disability. There is precondition to provide great number of documents, which is quite difficult for PWD and their families, because most of institutions that should issue this documents are not accessible, there is not accessible transport to reach them, which is a problem particularly for PWD who live alone or in rural areas, it is very time consuming and require additional cost for different taxes;
- Most of these benefits are connected with income per household member. Problem is that additional costs of disability are not take into account, although costs for household in which there is one or more members with disability are always higher compared with one without members with disability
- In some local communities provision of services and additional financial benefits related to income per household member, are accounting allowance for assistance and care of another person, even though it is a personal right dedicated with disability and can not be, by law be count as income, thus preventing provision of particular service or benefits.
- In many surveys PWD stated that also one of the crucial problems with financial benefits and different allowances is that allocated amounts were not satisfactory in reality for a person to be able to provide a service he/she needed or provide basic costs needed for adequate standard of living

Proposed questions:

1. Which measures State will take to simplify procedures for securing the rights of social protection?
2. Which measures State will take to take in account additional costs of disability, when defining particular rights in social protection?
3. Which measures State will take to provide that local communities use the same criteria in accounting the income per household member?

⁵⁷ Law on Social Protection, "Official Gazette of RS", No. 24/2011

Article 29. Participation in political and public life

The Article 29. is dealt with in paragraphs 327 to 331 of the State Report. All citizens in Serbia could participate in political and public life, on different ways, including participation on the election. As stated in State Report the principle of free, general, equal and direct voting right had been fully applied, and all citizens of the Republic of Serbia have active and passive voting rights under the absolutely same conditions, for citizens who are over 18 years of age and have legal capacities. So it applies also for PWD who fulfill those conditions. Disabled persons who by the decision of the court, do not have legal capacities, could not exercise this right. Therefore, political participation of persons with intellectual and psycho-social disabilities is nonexistent. It is also important to know, that this right is not denied only to persons with intellectual disabilities, as according to Family Law, legal capacities could be deprived on other grounds beside intellectual disabilities.

It is legally prescribed that a voter who is unable to vote personally in a polling station (a blind, disabled person, illiterate person) has a right to bring a person whom the voter choose himself and who shall vote for him/her in a way determined by him/her, that is, vote instead of him. As well as that the voter unable to vote at the polling station (persons unable or prevented from coming to the polling station) may inform the polling board whether he would like to vote, and vote at home according to the prescribed procedures. It is possible to organize voting for persons with disabilities who are placed in institutions for long-term accommodation.

However, there are still gaps both in normative procedures and difficulties in the practice. The participation in the electoral process participation is hindered by inaccessibility of pooling stations and voting materials as well as the lack of information in election campaigns.

In the monitoring report "Accessible elections" ⁵⁸ it is stated that the lack of procedures is the elementary obstacle in realizing guaranteed rights. There is By-law⁵⁹ in which all standards referring to the construction of a facility are listed but without stating specific situations during necessary adaptation. The scope and standards for providing access thus come to the assessment of the persons, responsible for realizing necessary adaptation, which can but do not have to fulfill the conditions of the Rulebook on Technical Accessibility Standards.

Political rights and possibilities to enjoy the rights on the basis of equality is also hinder for deaf and hard-of-hearing persons, because election campaign programmes are not accessible in Sign language to a sufficient extent, the electoral procedure, and the interpretation in the Serbian Sign language is unavailable in a polling stations during voting.⁶⁰ This has being confirmed in the analysis of election contents in programmes on 8 TV stations which find out that a daily average number of minutes of accessible contents to the Sign language users goes from 2 to 10 minutes a day.⁶¹

⁵⁸ Loncar G. "Accessible Elections - Participation of Persons with Disabilities in Political and Public Life", Disability Rights Promotion International Regional Center for Europe, Belgrade, 2014

⁵⁹ The Rulebook on Technical Accessibility Standards (2013)

⁶⁰ Loncar G. "Accessible Elections - Participation of Persons with Disabilities in Political and Public Life", Disability Rights Promotion International Regional Center for Europe, Belgrade, 2014

⁶¹ Regulatory Authority of Electronic Media, January, 2014, General binding guidelines to broadcasters aimed at providing free information for viewers with hearing impairment during the election campaign

<http://www.rra.org.rs/uploads/useruploads/PDF/2505-Opste%20obav%20upustvo%20emiterima%20za%20gledaoce%20sa%20ostecenim%20sluhom%202014..pdf>

The secrecy of voting for blind persons is not provided since voting material in alternative formats is not provided.⁶² as Article 72 of Law on Election of MP's - LEMP does not recognize other, more adequate forms of voting. Having commented on these provisions, the Ombudsman of RS concluded that every reduction of the content which would shape the possibility of respecting the elementary political right must be done in a precise manner. There is a need to change Article 63 of LEMP in which the use of alternative formats of a ballot is not considered either. The issue of providing accessible information is also not regulated. There is a general provision in the Law on Public Information stating that all information must be accessible to persons with disabilities but there is not the by-law which would explain what this implies.

On the basis of Article 34 of the Law on Election of MP's, the Republic Electoral Commission adopted the Guidebook for Conducting Elections for the election in March 2014. This document is important for persons with disabilities due to the fact that Article 30 states that during determining a polling station, accessibility for persons with disabilities shall be taken into consideration. However, Article 61 indicates that among the means for conducting elections provided by the Budget of the Republic of Serbia for 2014, according to the financial plan of total expenditures established by the Republic Electoral Commission which can be used for procurement, printing and translating election material, there is no visible item in projected expenditures that could facilitate accessibility of elections to persons with disabilities because interpretation services refer to translation in the languages of National Minorities.

Persons with disabilities are free to have their political affiliation, enroll in a political party and take part in election campaigns. In 2007 to 2012 the PWD in political life were represented by one MP with disability and wheelchair user , but in the elections in 2012 and 2014, no political party has not proposed any PWD as a candidate on their election lists. In the city council, however, there are several PWD but they are generally underrepresented. To remedy the situation, it is necessary to raise awareness of the leadership of political parties about PWD, but also there is a need of empower persons with disabilities and motivate them to actively take part in political life.

Proposed questions:

1. Which measures State would take to provide more accessible polling stations regardless of where they are registered for voting, if their polling station is inaccessible?.
2. Are there plans to provide voting material in alternative formats according to the needs of PWD?
3. How would interpretation in Sign language be provided to the greatest possible part of the political content?.

Article 31. Statistics and data collection

There are no unified records in Serbia about the number of PWD desegregated by different areas which would serve as clear indicators to identify obstacles and needs of PWD there are only separate data in different systems education, social protection, employment etc but these databases are not networked. The state collects much information about PWD that are presented in the reports of different institutions, but they not give real picture about PWD and are not

⁶² Paragraph 328 of the Initial Report

concentrated in one designated place that will make easy to reach them. There is not data about women with disabilities or records of persons with disabilities - victims of violence, and the perpetrators of any such acts. Attempt to get data about PWD through the last population census performed by the National Statistics Office, did not provide valid data because questions were not clearly defined. There is not enough research about issues of disability, except the one performed by OCS, which are usually done on a small sample.

Proposed questions:

1. What steps the Government is taking the issue of systematic data collection on all areas of OSI disaggregated by gender, age, type of disability, ethnicity, urban / rural population, data on education, health, access to justice, legal capacity, domestic violence, employment, institutionalization, housing care, participation in political life ...?
2. What steps the Government is undertaking in terms of active involvement and cooperation with OSI and the organizations that represent them to the above-mentioned activities have been successfully implemented?

Article 33. National Implementation and Monitoring

The Initial Report very briefly analyses Article 33 of the Convention (**paragraphs 373-376**).

Although Serbia adopted the Law on the Confirmation of the CRPD it does not established Independent Body or mechanism for the monitoring of implementation, of this Convention in the sense of Article 33, Paragraph 2.

The State bodies that exist do not have a mandate to monitor the implementation of the Convention.

In terms of Article 33, Paragraph 1 referring to forming the Interdepartmental Government bodies in charge of undertaking the adequate actions in various sectors and at different levels, there is the Council for Persons with Disabilities which has been operating since 2002. The main tasks of the Council have changed in time but they are still not realized in accordance with what it has been prescribed. The Council operates only formally, not realizing its goals and tasks for which it has been established. The Council meets very rarely, approximately 2 to 3 times a year, due to which one cannot talk about its coordinating role between a civil society, that is, the organizations of persons with disabilities and the state. Even when the meetings of the Council are held, the implementation of the Convention in practice has never been the subject of those meetings.

In addition to this body, the Government of the Republic of Serbia established another Council on March 27th, 2015 with mandate to monitor the implementation of the recommendations of United Nations Human Rights Mechanisms and to review and monitor implementation of recommendations the Republic of Serbia receives in the process of the Universal Periodic Review of the United Nations Human Rights Council and United Nations Treaty Bodies - various committees, including the Committee for the Rights of Persons with Disabilities. However the mandate of this Council is restricted only to the monitoring of the implementation of recommendations State receives related to all UN Conventions.

Also possible mechanism could be the office of Ombudsman, but to provide that changes in Law of Ombudsman will be required.

Proposed questions:

1. Is Government intending to establish an independent body / mechanism for monitoring the implementation of the CRPD also allocating funds in the budget for its operation?
2. What steps are being taken to appointed bodies in all ministries and coordinated strategies, policies and programs for persons with disabilities?
3. Which measures Government will take to ensure inclusion of PWD and their representatives as well as key partners in the monitoring of the implementation of the Convention, including provision of financial support for this task?