

*The Latvian Umbrella Body of Disability Organisations SUSTENTO*

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**Response to the Lists of Issues**

**Submission for the review of Latvia by the CRPD Committee**

**June 2017**

**Purpose and general obligations (arts. 1-4)**

4. The National Council on Disability Affairs is an advisory body coordinated by the Ministry of Welfare and comprising representative of other structures (ministries, municipalities, social partners, the Ombudsman, and NGOs). Although the representation is expected to be at the level of Secretary generals, the meetings are usually attended by lower level civil servants not competent to take decisions or commit their services to proposals. The horizontal structure of the Council and limited authority that the presiding Ministry of Welfare is able to exercise on other services negatively impacts the effectiveness of it.

The meetings take place every two months, but in reality, the Council operates mores as a discussion/update platform than a powerful decision-making structure it was conceived to be. Absence of an agreed procedure for making decisions or a result-oriented work programme with concrete objectives, division of responsibilities and monitoring of deliverables reduces the Council’s work to a symbolic expression rather than a tool for change.

Although the civil society is invited to participate in the Council’s work, SUSTENTO chose not to be presented there to show its disagreement with the ineffective processes within the Council.

The Council on Disability Affairs is not the only structure that has so far failed to set up transparent, consistent and inclusive practices for participation of DPOs in design, implementation and evaluation of policies related to the Convention rights. Spontaneous non-transparent involvement of DPOs on an ad hoc basis is practiced by many state branches, and has resulted in many lost opportunities to consider the valuable DPO expertise.

**Proposed recommendations:**

1. The Council on Disability Affairs should be moved up the state hierarchy to reaffirm the commitment to the State to the CRPD and symbolise the cross-sectoral relevance of the Convention. The Office of the President could host and coordinate the Council and exercise its authority to engage all relevant services.
2. The Council on Disability Affairs should adopt its terms of reference in consultation with the representative organisations of persons with disabilities. Such terms for reference should include the level of representation in the Council, the process of decision-making, the identification of the working priorities and measure to ensure fair and equitable participation of the civil society.
3. The Committee recommends the State to ensure Participation of the representative organisations of persons with disabilities as part and parcel of governmental decision-making and regulate it to ensure the transparency and inclusiveness of the process and availability of resources to support such participation.

6. Training of professionals on the rights of persons with disabilities takes places almost exclusively in the framework of projects (mostly, financed by the European Union). The exception from this practice is training of social workers that is financed from other sources, and is subject to public procurement of the service. There are a number of problems with this approach:

- the reliance on projects to train professionals makes it impossible to ensure any meaningful continuity of the process, gradually preparing the workforce that has solid foundations of the human rights-based approach to disability. There is an urgent need to develop a forward-looking strategy on training of professionals in all relevant fields and ensure sustainable funding for this purpose.

- calls for projects, most of which initiating from the Ministry of Welfare, are formulated in an overly medicalised language focusing on people’s impairments and medical diagnoses. This general understanding of disability as a medical term / problem is particularly attractive for the bidders from the medical field able to frame the proposals using the same medicalised approach. As a result, most training courses for professionals are offered from the medical perspective, perpetuating in seeing the disability as a medical condition requiring a ‘cure’.

**Proposed recommendations:**

1. The Committee recommends the State Party to adopt a forward-looking strategy on training of professionals on the human rights of persons with disabilities, and do so with meaningful involvement of representative organisations of persons with disabilities. Such a strategy should include a list of criteria that such training should meet, including the CRPD, social model of disability, non-discrimination, accessibility and gender equality.

7. Disability discrimination cases are brought to court extremely rarely. Inability of the average person to recognise discrimination as such, not knowing where and how to complain or where to seek support, as well as fear of victimisation all contribute to under-use of the legislation in litigation.

The office of the Ombudsman is a better known and used channel by citizens, including persons with disabilities. Although the Ombudsman is a fairly accessible institution that allows applications to be submitted in a free format, online or by post, only those based in Riga, the capital city, can realistically take an opportunity of making an appointment with the Ombudsman’s office to explain their case further or provide evidence. This may make it difficult to get a full picture of the situation, especially when the applicant is a person that uses alternatives means of communication (such as persons with intellectual disability, or dyslexia) or is unable to express themselves clearly in writing (for example, if they are not fluent in the national language).

On a general note, very little work on prevention of discrimination or recognition of discrimination is conducted among professionals, employers and the general public.

**Proposed recommendations:**

1. The Committee recommends the State Party to provide more support and strategic planning to inform organisations of people with disabilities and their individual members about prevention and recognition of discrimination.
2. The Committee recommends the State Party to conduct training of the relevant officials to enable them to assess all relevant disability cases for instances of discrimination, and to make their services fully accessible as to allow all persons with disabilities to file a complaint.

**Children with disabilities (art. 7) and Awareness-raising (art.8)**

12. Disturbing instances of children with disabilities exploited in TV fundraising campaigns have become commonplace. They usually feature a child with disability asking for money to undergo one or another type of ‘experimental treatment’, usually abroad, to ‘cure’ the child from the disability. The campaigns use pitiful portrayals of children begging to be rid of their disability at any cost, and slogans perpetrating the equation of a disability to a death sentence. The messages reinforce the medical model of disability and, most dangerously, put the children in the position of beggars before a nationwide audience. The unacceptable use of children as faces of charity campaigns in media is a symbol of the wider ignorance about child rights.

An example of such a fundraising advert can be seen on this Youtube link: <https://www.youtube.com/watch?v=ddYYiMBf4Do> It portrays a child with disability, Elina, who has been through a number of surgeries and now goes to a special school. Her disability could be ‘cured’ by German doctors who can make her walk independently, without walking aids, so Elina can ‘start her life’.

**Proposed recommendations:**

1. The Committee urges the State Party to develop public awareness campaigns based on the CRPD and aimed at changing the public perceptions of disability and presenting persons with disabilities, including children with disabilities, in an empowering and positive light.
2. The Committee urges the State Party to take effective measures to protect children with disabilities from exploitation, to protect their right to respect for privacy and protection of integrity. Such measures should target the widest variety of stakeholders, including the media, and be firmly based on the best interest of the child as a primary consideration.

**Accessibility (art. 9)**

15. National legislation on accessibility of public buildings applies to all new or renovated public buildings. However, it is not being complied with. Sanctions are non-existent due to lack of independent professional monitoring.

There is no certified system of evaluation of accessibility of infrastructures and, as a result, lack of qualified independent experts able to give a complete advice on an accessibility project (or conduct assessment of such a project). In the absence of such a system, disability NGOs are sometimes invited to give ‘opinions’ about accessibility. Although experts by lived experience, their expertise is usually only limited to some aspects of accessibility and does not necessarily take into account the existence of technological advances or innovations available.

Concerning the accessibility of public transport, it is submitted that the recent European Union legislation has been effective in improving the accessibility of city and intercity busses. However, the accessibility of the suburban buses remains highly inadequate, with many persons with disabilities living in the suburbs of large cities and towns not being able to use the suburban buses at all. Suburban residents are also excluded from the accessible mini-bus services that are run by the municipalities (and, consequently, only operate within the borders of a given municipality).

International bus connections to neighbouring countries are also inaccessible, and whereas assistance may sometimes be provided on one end, it is never guaranteed with certainty on the other end. This greatly impedes the mobility of persons with disabilities as well as their dignity.

Accessibility information given by the bus companies is often incorrect and unreliable.

**Proposed recommendations**

1. The Committee recommends the State Party to introduce without delay training and certification of experts in international accessibility standards to create a workforce of experts able to give qualified advice on accessibility solutions, certify projects for accessibility and testify impartially and objectively in cases of complaints and irregularities.
2. The Committee urges the State Party to take urgent measures to improve the accessibility of suburban transport to ensure that all persons with disabilities are able to exercise their right to personal mobility, and pending that, to reinforce and expand the adapted door-to-door service to the suburbs of large cities.
3. The Committee recommends to the State Party to initiate the necessary steps vis-à-vis its international partners to ensure that accessibility to take into account in the provision of cross-border passenger transportation.

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

28. Latvia’s deinstitutionalisation reform is funded by the European Union, from which it has received so far an impressive 90 million euros. It is unclear how the sustainability of the DI efforts will be ensured once the EU funding has finished in 2020. Only people with intellectual and psychosocial disabilities are included in the deinstitutionalisation process. People with physical disabilities are fully excluded from the reform, which only covers state-run institutions, whereas they predominantly live in municipal institutions. The de-institutionalisation programme targeting children specifically, although successful for children without disabilities, has only had limited benefits for children with disabilities so far.

The philosophy of independent living is strange to many relevant stakeholders and is fiercely opposed particularly by the staff employed in the institutions, care professionals and the general public.

**Personal mobility (art. 20)**

29. Persons in need of technical aids must obtain a prescription from their family doctor. More often than not, family doctors are not trained to assess the individual needs, usually relying on the person’s own assessment of their needs. The list of aids reimbursed by the state does not correspond to people’s actual needs, and it is not uncommon that equipment vital for independent life in dignity is not covered by the social security.

There are three centres in Latvia, in Riga, Rezekne and Kuldiga, where the technical aids can be ordered. Neither of them has an equipped showroom where different aids can be tested and adapted to the individual needs. The approach of the service is anything but person-centered, and there have been cases of a person with a disability getting more harm than support due to ill-fitting equipment.

Once the equipment has been ordered, the waiting time can extend from 3 to 12 months, including for people ordering it for the first time (who do not have alternative equipment they could use). This may render persons home-bound and extremely dependent on round-the-clock assistance.

Rental of mobility equipment is reserved for people with “severe mobility limitations” due to shortage of equipment. All others must rent from private companies.

The system is regulated by a regulation of the Council of Ministers.

**Proposed recommendations:**

1. The Committee recommends to the State Party to reform the system of provision of technical aids, embracing a person-centered and demand-driven approach that focuses on individual needs of the client, choice and quality.
2. The Committee recommends the State Party to invest in development of qualified services for personalised assessment of needs for technical aids and ensuring the optimal fitting of the equipment.
3. The Committee urges the State Party to take immediate measures to reduce the waiting lines for obtaining mobility equipment, particularly for first-time applicants.

**Respect for privacy (art. 22)**

32. The right to respect for privacy of persons with disabilities is routinely violated by the public officials who demand medical certificates (containing confidential medical information) as proof of disability and do not accept the state issued disability certificate. Although claimed as illegal, this practice is widely used at all governance levels.

**Proposed recommendations:**

1. The Committee recommends the State Party to intensify its efforts to train the public officials on the human rights model of disability and communication with persons with disabilities. A channel for denouncing the illegal practices violating the persons’ right to respect for privacy should be established.

**Education (art. 24)**

34. Mainstream education continues to be out of reach for most children with disabilities who have high support needs. Schools have little understanding on issues such as sign language, easy-to-read language, and other accessible teaching or communication methods. Children with complex disabilities often end up in one out of 61 special schools in the country (many located in remote areas far away from the cities). Although special schools have been identified as ‘resource centres’ for mainstream schools, they are hardly used as such. The necessary support and reasonable accommodations for children with disabilities to be included in mainstream schools is therefore not sufficient enough .

Learners with disabilities are disproportionately steered towards home schooling, which for learners *without* disabilities, is considered as a temporary extraordinary measure subject to regular review (Cabinet of Ministers Regulation No. 253). Children with disabilities, however, are routinely offered the home schooling option as a permanent solution. This solution is often (but not exclusively) offered to children living in rural areas who cannot use the inaccessible school buses nor afford private transport on a daily basis. Home schooling not providing the complete curriculum, its completion does not entitle the learner to a school-leaving diploma necessary to continue education at the next level, and the disadvantage experienced by the children with disabilities continues well beyond the school years.

**Proposed recommendations:**

1. The Committee urges the State Party to take effective measures to ensure all children’s right to inclusive education, and support to participate on an equal basis with othersand recommends it to seriously consider the Committee’s General Comment No. 5. In this vein, the Committee calls on the State Party to approach home schooling for learners with disabilities on exactly the same footing as for learners without disabilities and apply to criteria of short duration, regular review and quality monitoring.

**Health (art. 25)**

36. Persons with disabilities are entitled to free medical consultations and interventions, with the exception of medications, which are often prohibitively expensive, especially for persons with complex disabilities that have been excluded from the mainstream labour market for a long time. Some exceptions from this rule do exist, such as free oncological medications, or free medications for mothers of children under three.

For example, the ALS patient can get the ventilation device is provided for free from the State but the filters are not compensated and cost around 500 Euros per month. Many patients and their families cannot offer it.

Proposed recommendations:

1. The Committee recommends to the State Party to extend the entitlement to free medications prescribed by doctor and different medical aids (filters, diapers, catheters etc.) to persons with disabilities, giving a priority to persons belonging to the so-called first group.

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

40. The design of the social protection system is largely inadequate and does not address the actual needs of service users.

The highest amount of care benefit is of 213 euros per month. Although it is reserved for persons in highest need of support, it is never enough to legally employ a full-time assistant. As the result, care jobs remain the responsibility of the family, or residential care institutions, despite the deinstitutionalisation policy promoted by the state.

The amount of a disability pension for a person with a disability belonging to the so-called first group (80-100% ‘incapacity to work’) is 102 euros per month. This amount is significantly lower than the minimum wage of 380 euros per month, and even lower than the living wage set at 129 euros per month.

**Proposed recommendations:**

1. The Committee recommends to the State Party to review its system of social protection and index the targeted care benefits to at least the minimum wage, adapting the amounts to correspond to current prices. In doing so, the State Party is urged to prioritise the most socially unprotected groups, including persons with disabilities belonging to the so-called first group.

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

47. Ministry of Welfare serves as the focal point for matters relating to the implementation of Convention. Three Ministry staff are responsible for coordinating the Convention-related matters. However, this important role is largely invisible on the Ministry Internet page or other communication channels and the general public (and, indeed, other government service) is not aware of the work done on the Convention.

The Ombudsman’s Office, nominated to serve as the independent mechanism under the Convention, has not received any additional resources to fulfil its mandate and currently has 0,5 staff working on the Convention. It mostly raises the issues related to the Convention in response to complaints from third parties, but rarely proactively. The Ombudsman’s work as independent mechanism under the Convention is not visible on its website. The Ombudsman has four advisory boards, on issues of Health, Access to Education, Roma, and Family About legal framework of partnership in family. There is no advisory board on CRPD or disability despite the unique and unprecedented role of the Ombudsman in the Convention framework.

**Proposed recommendations:**

1. The Committee recommends the State Party to make the national implementation and monitoring mechanisms that operate in the country visible to the general public and ensure adequate financial and human resources to support the responsible services in fulfilment of their tasks under the Convention;
2. The Committee recommends to the State Party to provide guidance to the independent mechanism nominated under Article 33.2 about the broad scope of its obligations to promote, protect and monitor of implementation of the Convention and ensure the financial feasibility of these activities.