

## International Disability Alliance (IDA)

Disabled Peoples' International, Down Syndrome International, Inclusion International,  
International Federation of Hard of Hearing People,  
Rehabilitation International, World Blind Union,  
World Federation of the Deaf, World Federation of the DeafBlind,  
World Network of Users and Survivors of Psychiatry, Arab Organization of Disabled People,  
European Disability Forum, Pacific Disability Forum,  
Red Latinoamericana de Organizaciones no Gubernamentales de Personas con  
Discapacidad y sus familias (RIADIS)

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### **Suggestions for disability-relevant recommendations to be included in the Concluding Observations of the Committee against Torture 45th Session (1-19 November 2010)**

The International Disability Alliance (IDA) has prepared the following suggestions for the Concluding Observations, based on references to persons with disabilities found in the CAT Committee's 45th Session state report.

#### BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina has not ratified the Convention on the Rights of Persons with Disabilities.

#### [State Report](#)

#### **References to persons with disabilities in the state report:**

34. The Law on Amendments to the Law on Ombudsman for Human Rights of Bosnia and Herzegovina sets forth that the Ombudsman institution should have:

- (1) A department of monitoring the rights of children;
- (2) A department of monitoring the rights of national, religious and other minorities; and
- (3) The Department for Protection of Persons with Disabilities.

#### **Reply to questions raised in paragraph 7**

#### **The situation in the institutions for social care in the Federation of Bosnia and Herzegovina**

38. The above question, among others, applies to existing measures to prevent torture and ill treatment in the institutions that care for children, the aged, **mentally ill or disabled**.

#### *Institution for **care of mentally disabled persons** – Drin*

39. In the mentioned institution there is no torture and ill treatment and therefore the measures to prevent torture and abuse are not necessary. **The measures of protection are carried out against two persons who cannot be controlled by medicaments and human bed bindings.**

#### *Institution for **care of mentally disabled persons** – Bakovici*

40. This institution does not have a closed section; there is a dedicated room for the separation of users and **fixing by special fixers** when it is assessed that there is a real danger to the life and health of the user or other user or employee. The decision on separation is made by the neuropsychiatrist and sometimes, in the case of emergency, by the nurse/technician with immediate notification of the neuropsychiatrist who decides the further course of the proceedings. The action taken is enrolled in the user's health file.

41. **Separations** are rare because the work is preventive (talk, control of drug-taking therapy, occupational therapy, other socio-therapies and entertainment and recreational activities). In 2008/2009 **separation and fixation were carried out with three users**: with two on two occasions and with one on one occasion. This was duly and properly recorded.

42. The **separation is done by special instructions issued on the basis of the Law on protection of persons with mental disorders (“Official Gazette of FBiH” no. 37/01 and 40/02) and upon the filling in the “separation log”**.

*Institution for care of mentally disabled children and young people – Pazaric*

43. The institution does not use torture, physical and psychological punishment and harassment of protégés. In their work they use only educational measures and methods, which affirm protégés' acceptable behavior, the proper attitude toward the property and work, through constant motivation, stimulation and correction of negative traits. The following procedures are used:

- **Regular administration and control of medicament therapy** by authorized employees, in cooperation with specialist doctors.
- Use of the space for reducing aggression in the room for multisensor therapy.
- Organized and permanent work in various cultural and sports sections.
- Holding regular meetings and the conduct of the advisory sessions (individual and group discussion for therapeutic purposes).
- And sometimes it is necessary to use some other means designed for particular situations, in moments of **reinforced psycho-mobility unrest, aggression and destructiveness** in order to protect the health of protégés and the property of the Institution, such as **human fixation and a limited stay in a room for isolation**. Such things are necessarily recorded in a log book. It is necessary to fill in the log book who it was that approved the stay in isolation, the reason for the stay and the duration of the **isolation which cannot last longer than two hours**. The practice imposed some alternative methods and procedures, such as daily walks and trips, therapeutic working occupation and occupational **therapy, which currently is not adequately manageable due to lack of the required skilled personnel**.

*Institution for the education of male children and adolescents – Sarajevo*

44. In the framework of professional standards of the institution it is prohibited to use force and torture, but the **possibility of verbal forms of force is not excluded** in the framework of accepted scientific methodology through preventive and corrective techniques: a warning, regimentation, habituation, prevention, training, persuasion. Supporting staff's attitude towards children is under the control and takes place with the presence of their teachers.

**The situation in the institutions for social care in Republika Srpska**

*Clinical Center in Eastern Sarajevo, **Psychiatry clinic** in Sokolac (closed and open squad of forensic psychiatry)*

45. The SRT Committee Commission visited this institution in 2003, 2004, 2007 and on 12 May 2009, with the application of the **Law on the Protection of Persons with mental disorders** (“Official Gazette of RS”, No. 64/04), and recommended measures by the SRT Commission, which was conducted by the clinic and during the last visit it was stated that there is no torture against patients or prisoners.

46. Until now, the institution has not enforced education on **alternative techniques involving coercion**, or evaluation of various educational programs.

*Clinical Center in Banja Luka*

47. The prevention of torture against **patients on the psychiatric clinic** in Banja Luka is mainly carried out in line with the **Law on the protection of persons with mental disorders** (“Official Gazette of RS”, No. 64/04), and there are no internal regulations to prevent torture against patients at other clinics, except for the house rules, and the process of medical staff

is taking place as per ethnic, human and professional principles.

*Home for **retarded children and youth** in Prijedor*

48. The following rules are applied in prevention of torture against the institution protégés:

- The Rulebook on Internal Organization and Systematization of the job description, work assignments and responsibilities of workers
- Decisions on establishing the rules – to limit and instructions how to treat the unrest persons
- To prevent torture, the Institution uses the services of a psychiatrist, medical doctors, physiologists, dentists and medical technicians

*Institution for the care of children and adolescents in Visegrad*

49. The following rules are applied in prevention of torture against the institution protégés:

- **Instruction to restrict – isolate unrest users**
- **Rule – Application of physical force to protect persons with mental disorders (regulations provided in the report attachment)**

*JUSZ Social-geriatric Center in Banja Luka*

50. The following is applied in the prevention of torture:

- Regulations on the work of the institution
- Rules on the behaviour of workers at work
- Rules on the criteria and conditions for admission of users in the institution
- Instruction for the work of the Commission for reception and discharge of users

51. It is stated that the institution has no registered cases of abuse of users or any other forms of torture and inhuman treatment.

*Ministry of Health and Social Care of Republika Srpska*

52. In Republika Srpska, the area of social care in the Social geriatric centers and institutions for the care of **children with special needs** concerning the prevention of torture is regulated by:

- The Law on Social Care of Republika Srpska (“Official Gazette of Republika Srpska”, No. 5/93), and amendments to the said Act (“Official Gazette of Republika Srpska”, No. 15/96, 110/03 and 33/08)
- The New and updated Law on Social Care of Republika Srpska, which is in the draft stage and according to the plan it should be adopted and entered into force by the end of the current year
- The Law on the Ombudsman for Children (“Official Gazette of Republika Srpska”, No. 1003/08)

*Ministry of Education and Culture of Republika Srpska*

53. During the teaching and out-teaching activities it is necessary to promote the models of non-violent communication, mutual tolerance and respect, through organizing panel discussions, school meetings with parents, classroom hours, student workshops, events, by publication on the notice board of pedagogical-educational institutions or in other appropriate ways.

54. The responsibilities of relevant institutions and other bodies participating in the prevention, detection and combating of violence among children and young people to take measures and activities aimed towards the prevention and combating of violence are:

- (a) In units of local government, to maintain the regular meetings of representatives of competent authorities and departments for the coordination of activities related to the issues of violence, and establish effective ways of cooperation and exchange of relevant data, both in terms of individual cases of violence, as well as achievements and addressing the problems of violence among children and young people;

- (b) In the case of reports or notification of violence to ensure to provide the other competent authority appropriate information on the case and treatment for a full inquiry into the activities taken, with the goal of comprehensive protection of the child;
- (c) To establish cooperation and exchange of data with other units of local self-government in order to exchange experiences and the creation of good practice;
- (d) To establish cooperation with other organizations that could help in specific cases, e.g. with non-governmental organizations, religious communities, family counselling, family medicine outpatient clinics, as well as experts dealing with issues of violence among same age;
- (e) To create special and customized treatment plans in cases of violence among children and young people considering the features and characteristics of individual communities;
- (f) To establish cooperation with relevant medical institutions and doctors.

**55. “The Ministry of Education and Culture does not maintain statistics on the results of the enforcement of measures for the prevention of torture and abuse in educational institutions, as the annual program of the school does not provide for the conduct of these statistics.”**

**56. “The Ministry does not have data related to education with alternative techniques that do not involve coercion, and there are no data about who carries out this training.”**

*Activities of the NGO sector*

66. This non-governmental organization (NGO) has been working and training in the field of communication skills and non-violent conflict solving, combat and prevention of trafficking, gender equality, human rights, healthy partner relationship, and reproductive health and rights.

67. Medica Zenica organizes and implements educational activities for the needs of employees who work with children in educational or social care institutions, aged people, and **people with mental disorders or disabilities**, as well as for employees in hospitals. Medica Zenica held long term multi-targeted education throughout BiH for police officers and the State Border Service officials.

68. Medica Zenica also organized educational and creative workshops for children who reside in the children’s house Medica, as well as for children within the non-governmental organizations: “Teacher Without Borders” from Zenica, “Romano Centro” – Zenica and public institution House as a family, Zenica, dealing with children’s rights (as per Convention on the Rights of the Child); prevention of violence in the family and community, as well as in the field of prevention of exploitation of children.

69. For 16 years, through the work of their psychosocial and health services, among which is the Safe House (stationary location), Medica Zenica has provided care and support to surviving victims of war trauma, torture and violence, that is, women of different age, girls and children, as well as men, within the framework of psychological counselling, such as family therapy. It also has implemented and honoured the measures to prevent torture and abuse within the Safe House, which provides shelter for women and children, both in relation to work with clients (women, girls and children) and among employees. Thus, employees are obliged to and shall respect the following measures and policies, some of which are signed at signing of business contracts.

**70. The Center for torture victims is not familiar with the measures for the prevention of torture and abuse in educational institutions, institutions of social care for children, aged persons, persons with mental disorders or disabilities, as well as in hospitals.**

71. In the regions of Sarajevo, Stolac, Gorazde and Visegrad, the Center for torture victims organized 12 educational workshops for social workers (in the centers for social work), teachers and psychologists in schools with the aim of raising awareness of this occupational group on torture, its consequences, especially from the viewpoint of family deregulation, impact on children and on prevention measures based on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These activities were implemented in the period December 2006–December 2008.

**Recommendations from IDA :**

- To abolish provisions, including those in the Law on the Protection of Persons with mental disorders, that are contrary to international standards on the rights of persons with disabilities (which include persons with psychosocial disabilities or those deemed to have mental disorders), namely to adopt measures to ensure that all health care and services, provided to persons with disabilities, including all mental health care and services, is based on the free and informed consent of the person concerned, and that involuntary treatment and confinement are prohibited.

(“The Special Rapporteur notes that in relation to persons with disabilities, the Convention on the Rights of Persons with Disabilities complements other human rights instruments on the prohibition of torture and ill-treatment by providing further authoritative guidance. For instance, article 3 of the Convention proclaims the principle of respect for the individual autonomy of persons with disabilities and the freedom to make their own choices. Further, article 12 recognizes their equal right to enjoy legal capacity in all areas of life, such as deciding where to live and whether to accept medical treatment. In addition, article 25 recognizes that medical care of persons with disabilities must be based on their free and informed consent. Thus, in the case of earlier non-binding standards, such as the 1991 Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (resolution 46/119, annex), known as the Mental Illness Principles, the Special Rapporteur notes that the acceptance of involuntary treatment and involuntary confinement runs counter to the provisions of the Convention on the Rights of Persons with Disabilities.” Report of Special Rapporteur on Torture, 28 July 2008, A/63/175, para 44 ; “Legislation authorizing the institutionalization of persons with disabilities on the grounds of their disability without their free and informed consent must be abolished. This must include the repeal of provisions authorizing institutionalization of persons with disabilities for their care and treatment without their free and informed consent, as well as provisions authorizing the preventive detention of persons with disabilities on grounds such as the likelihood of them posing a danger to themselves or others, in all cases in which such grounds of care, treatment and public security are linked in legislation to an apparent or diagnosed mental illness.” OHCHR Thematic Study on enhancing awareness and understanding of the CRPD, A/HRC/10/48, 26 January 2009, para 49; see also OHCHR Information note no 4, “The existence of a disability can in no case justify a deprivation of liberty.” [http://www.ohchr.org/EN/UDHR/Documents/60UDHR/detention\\_infonote\\_4.pdf](http://www.ohchr.org/EN/UDHR/Documents/60UDHR/detention_infonote_4.pdf)).

- To incorporate into the law the abolition of violent and discriminatory practices against children and adults with disabilities in the medical setting, including deprivation of liberty, the use of restraint and the enforced administration of intrusive and irreversible treatments such as neuroleptic drugs and electroshock, recognized as forms of torture and ill-treatment, in conformity with recommendations of the Special Rapporteur on Torture ( “The Special Rapporteur is concerned that in many cases such practices, when perpetrated against persons with disabilities, remain invisible or are being justified, and are not recognized as torture or other cruel, inhuman or degrading treatment or punishment.” Report of Special Rapporteur on Torture, 28 July 2008, A/63/175, para 41; see also paras 38, 40, 47, 49, 61-63).

- To end all practices of restraint, fixation, physical force, isolation, control of behavior using medications, and other forced or coerced administration of psychiatric interventions such as electroshock and mind-altering drugs including neuroleptics, that are currently used on persons with disabilities in psychiatric institutions, social care homes and other institutions, to carry out education of personnel on the rights of persons with disabilities under the CRPD and on alternative responses to behavior that do not involve coercion of any kind, and to establish and enforce clear regulations to end these practices in accordance with the CRPD and the recommendations of the Special Rapporteur on Torture. (“The Special Rapporteur notes that forced and non-consensual administration of psychiatric drugs, and in particular of neuroleptics, for the treatment of a mental condition needs to be closely scrutinized. Depending on the circumstances of the case, the suffering inflicted and the effects upon the individual’s health may constitute a form of torture or ill-treatment.” Report of Special Rapporteur on Torture, 28 July 2008, A/63/175, para 63)

- To abolish isolation of children and adults with disabilities, and ensure that isolation is not replaced with coercive mental health practices, in accordance with the CRPD and the Special Rapporteur on Torture.

- To prohibit the application of restraint and administration of psychoactive medication as a means of controlling behavior or as treatment to children with disabilities, particularly in the area of mental health, which are significantly harmful for their healthy physical and psychological development.

- To adopt **trauma-informed approaches** to services for children and adults with disabilities with compulsory and regular training for clinical professionals and all persons working with children and adults with disabilities. A trauma-informed approach is based on the recognition that many behaviours and responses (often seen as symptoms) expressed by people with psychosocial disabilities are directly related to traumatic experiences that often cause mental health, substance abuse, and physical concerns. For many people with psychosocial disabilities, systems of care perpetuate traumatic experiences through invasive, coercive, or forced treatment that causes or exacerbates feelings of threat, a lack of safety, violation, shame, and powerlessness. Unlike traditional mental health services, trauma-informed care recognizes trauma as a central issue. Incorporating trauma-informed values and services is key to improving program efficacy and supporting the healing process.

- To ensure that inspection system in prisons, psychiatric institutions and other institutions where persons with disabilities may be confined or reside, conform to the requirements of the CRPD.

- To ensure that the Department for Protection of Persons with Disabilities employs and closely consults with persons with disabilities and their representative organizations in the carrying out of its mandate.

- To make a plan with target dates and monitoring to close down institutions and realize the right of persons with disabilities to live in the community by ensuring that housing is affordable and accessible for persons with disabilities, that they have the legal right to choose where and with whom to live on an equal basis with others, and by making available support services to realize the will and preference of individuals as to how they wish to live. (“Many States, with or without a legal basis, allow for the detention of persons with mental disabilities in institutions without their free and informed consent, on the basis of the existence of a diagnosed mental disability often together with additional criteria such as being a “danger to oneself and others” or in “need of treatment”. The Special Rapporteur recalls that article 14 of CRPD prohibits unlawful or arbitrary deprivation of liberty and the existence of a disability as a justification for deprivation of liberty.” Report of Special Rapporteur on Torture, 28 July 2008, A/63/175, para 64).