

International Disability Alliance (IDA)

Member Organizations:

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

Suggestions for disability-relevant recommendations to be included in the Concluding Observations CEDAW Committee 50th Session (3-21 October 2011)

The International Disability Alliance (IDA) has prepared the following suggestions for the Concluding Observations, based on references to persons with disabilities to be found in the State Report, List of Issues, and Replies.

MONTENEGRO

Montenegro ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 2 November 2009.

State Report

Selected references to persons with disabilities in the state report:

17. The Law on Pension and **Disability** Insurance (Official Gazette of the Republic of Montenegro 54/03, 39/04, 79/04, 81/04, 47/07 and Official Gazette of Montenegro 79/08) grants more favourable conditions for women to retire earlier than men whereby the man is entitled to retire at the age of 65 and the woman may retire at the age of 60 with minimum 15 years of pensionable period (Article 17).

20. Law on Higher Education (Official Gazette of the Republic of Montenegro 60/03) stipulates that higher education shall be accessible to all persons under conditions prescribed by this Law and statute of the institution (Article 6), while discrimination in higher education on the basis of sex, religion, marital status, colour, language, religion, political or other belief, national, ethnic or other background, membership in the national community, property status, **incapacitated condition (disability)** and other similar grounds, position or circumstance shall be prohibited (Article 7).

65. Article 9 of the Labour Law defines a positive measure where paragraph 2 specifies that provisions of laws, collective agreement and employment agreements concerning special protection and assistance to certain categories of employees, and particularly those concerning the protection of **persons with disabilities**, women during pregnancy and maternity leave and absence from work for the purpose of care for the child or special care for the child as well as provisions concerning special rights of the parent, adoptive parent, guardian and foster parent shall not be considered discrimination.

77. The Law on Broadcasting governs broadcasting and operation of electronic media as a specific form of exercise of the right to the freedom of expression based on the principles of freedom, professionalism and independence of electronic media, prohibition of any form of censorship or unlawful interference in their work, development of competition and pluralism in the field of broadcasting, objectivity, non-discrimination and public licensing procedure and

other matters in the field of promotion of human rights and freedoms. In addition, Article 95 paragraph 3 of this Law prescribes obligation of the broadcaster to produce and broadcast programmes intended for all segments of the society without any discrimination and with particular regard to specific social groups such as children and the youth, minority ethnic groups, the **disabled**, those vulnerable in terms of social position and health etc.

80. The Code of Journalists of Montenegro signed by representatives of all relevant journalism associations in Montenegro on 21 May 2002 specifies 12 fundamental principles to be followed by a journalist. Principle 5 states that “race, religion, nationality, ethnic affiliation, sexual orientation and family status of a person shall be mentioned by the journalist only if so needed for the purpose of informing.” Guidelines for Implementation and Interpretation of Principle 5 of the Code state, among other things, that media may not publish material whose purpose is to disseminate hostility or hatred against people because of their race, ethnic background, nationality, sex, **physical disabilities**, religion of political affiliation.

Article 11

208. Under the Constitution of Montenegro, everyone is entitled to work, free choice of occupation and employment, to fair and humane work conditions and protection during unemployment (Article 62). The Constitution stipulates that youth, women and **disabled persons** enjoy special protection in the workplace (Article 64, paragraph 4).

214. Some articles of the Labour Law refer, inter alia, to special protection of women (Article 11), so that an employed woman during pregnancy, an employed woman with a child younger than five years of age, and a single parent with a child younger than seven years of age, an employed parent with a **child with severe disability**, an employed young person of 18 or an employed **person with disability** may not be transferred to another workplace outside the place of temporary or permanent residence.

245. The Employment Office is particularly concerned with hard-to-employ categories of unemployed persons. RAE in Montenegro and **persons with disabilities** are certainly among the most vulnerable categories among the hard-to-employ persons. For the purpose of their faster employment, certain programmes of active employment policy are fostered. These programmes aim not only to improve their social and financial status, but also to provide psychological empowerment, integration in the society, enhanced confidence in themselves and their capacities, and to encourage independent decision-making concerning issues important for their future lives.

256. The Employment Office has continuously implemented the projects for employment and social inclusion of **persons with disabilities**.

259. The Employment Office records annually include on average 2,600 **persons with disabilities (2,000 disabled workers** of II and III category of **disability** and 600 categorized persons), which makes up around 9% of the overall number of the unemployed. **Disabled workers** lost their jobs due to bankruptcy or winding up of companies, or were made redundant. The share of women is around 29%. The numbers of unemployed persons with disabilities are the largest for the municipalities of Bijelo Polje and Podgorica (the share of women around 40% in Bijelo Polje and around 28% in Podgorica).

260. Active employment policy measures focused on improving the position of the **disabled**:

- Involvement in public works (multi-year project “Sunny Workshop”); – Self employment loans with favourable terms; – Vocational training in certain occupations; – Subsidized contributions;
- Setting up a rehabilitation centre.

The Employment Office has continuously implemented the public work activity titled “Sunny

Workshop”, aimed at more efficient and faster employment of **persons with disabilities**, as one of the most difficult and long-term problems faced by our society. The share of women in this public work activity is around 53.8%.

261. Between May 2006 and December 2008, 10 self-employment projects of **persons with disabilities** were approved. Out of this number, 4 projects were awarded to women to start craft-service workshops (three in the municipality of Bar) and one was awarded for a clothes and footwear shop (municipality of Tivat).

271. A separate article of the Law defines additional rights for women with regard to cash benefit, so that the previously defined rights in the sense of the given Law continue to be in effect during pregnancy and childbirth, recognized as maternity leave for employed women according to labour regulations. A **person with disability** trained in a social protection institution or another family is also entitled to cash benefit while job seeking.

290. The Law regulates that termination of pregnancy in minors and persons under guardianship may be performed only with the parents' consent. Termination of pregnancy may be performed after the end of week 10 to week 20 from the date of conception (Article 6) if it is assessed, based on medical indications, that there is no other way to save life or eliminate severe harm to a woman's health during pregnancy, childbirth or after childbirth; if it is to be expected, based on medical indications, that the child will be born **with severe physical or mental disability**; if the conception was associated with a criminal offence; if a woman could face difficult personal or family situation during pregnancy or after childbirth. Termination of pregnancy under this article is approved by a commission on termination of pregnancy. Termination of pregnancy later than 20 weeks from the date of conception may be performed only on the basis of the medical indications from Article 6. Termination of pregnancy between weeks 24 and 32 from the date of conception is preceded by mandatory feticide, as medical intervention, to avoid birth of live but harmed fetus. Termination of pregnancy from paragraphs 1 and 2 of this Article is approved by the Ethics Committee of the Clinical Centre of Montenegro. The expenses of termination of pregnancy up to week 10 from conception are borne by the pregnant woman. Article 18 of the Law prohibits termination of pregnancy motivated by sex selection.

312. **Women with disabilities** exercise the rights in the area of social and child protection pursuant to the Law on Social and Child Protection (»Official Gazette of the Republic of Montenegro 78/05). Basic social protection rights are the following: family cash benefit; personal **disability** allowance; assistance benefit; placement into an institution; placement in another family; assistance for upbringing and education of children and youth with special needs; health care; coverage of funeral costs, and one-time cash allowances. Basic child protection rights are the following: allowance for accessories for a newborn child; childbirth benefit; compensation of salary for one half of full working hours, and child benefit.

[List of Issues](#)

22. The unemployment rate among women with disabilities seems to be disproportionately high (see para. 304 of the report). Please describe the legal safeguards protecting women and men with disabilities against lay-offs, as well as the impact of the active employment policy for improving the situation of women with disabilities (see para. 305 of the report).

[Replies](#)

The cases where women complained about violation of their legal rights were related to the infringement of their:

- rights that arise from work and rights to work - Children's rights - right to be granted Montenegrin citizenship - right to residence - right to protection against cruel, inhuman and humiliating treatment - right to property and the peaceful enjoyment of the property - right to a pension and insurance for the disabled

In 2010, there were 36 (42) criminal offences against sexual freedom, which was 14.2% fewer compared to 2009. There were 5 (9) rapes and one rape attempt (3) recorded, which was 44.4% and 66.6 % fewer than in the corresponding year respectively. There were 13 (21) unlawful sexual activities, 4 (3) of facilitating prostitution, 8 criminal offences of facilitating prostitution with criminal conspiracy, 3 criminal offences of sexual intercourse with a minor, 1 criminal offence of sexual intercourse with a disabled person and 1 criminal offence of displaying pornographic material.

According to the latest data, there are 2,275 disabled people (invalids and less disabled people) on the record of the Employment Agency, 724 of them women, being 31% of the total number. Informing and motivating people to actively search for jobs, as a measure of action employment policy is aimed at providing people with information about their rights and duties defined by the law, and identifying the needs and limitations of a particular person, as well as at motivating them to a more active approach towards finding a job and mastering the skills to search for a job. Having in view the obstacles which affect the employment of disabled people: health limitations (reduced work ability), lack of self-confidence, lack of motivation, stigmatization, problems in adaptation and a low level of social support, the need arose for creating specific, long-term measures directed towards enabling those people to find a job. Thus, the program "I'll succeed" came into being, aimed at increasing personal competencies of an unemployed person for his successful joining the job market (recognizing obstacles to their finding employment, their acceptance, improving a self-perception, raising self-dignity and confidence, extrovertness in communication and interpersonal communication, support to the personal and professional development; improving the skills of unbiased listening and sympathy with other people; learning how to search for a job; learning how to introduce yourself to the employer; learning how to write an application or CV, devising plans and setting goals which are realistic and motivating to active search for a job). The program is carried out over six-month period and consists of: an informative-motivational workshop (one month), and professional help in actively searching for a job (five months).

During 2010, one thousand three hundred and fifty two unemployed people participated in this program, 1054 of them women, making 77, 96% of the total number of the attendees. Since this program is more complicated and lasts a few months, it is carried out at two specialized institutions.

The reforms in the field of labour and social legislation resulted in the need to pass the Law on professional rehabilitation and employment of disabled people (adopted on the 29th of July, 2008), which comprehensively legally covered the complex field of professional rehabilitation and employment of disabled people. Employment of disabled people, applying the quota system, implies that the employer who hire a disabled person is subsidized which can be realized in a few ways: subsidy for adapting the workplace and work conditions, preferential loans for buying machines, equipment or tools needed for the employment of a disabled person, assistance with covering the expense of a personal assistant for the disabled person as well as subsidies on the salaries of those people. A disabled person who is self-employed, or sets up a business, finds employment in a household and engages in farming as their only occupation, is legally entitled to subsidies. Also, as a means of support in employing the disabled the law stipulates that must be given professional help and assistance with the aim of efficiently integrating them into the world of work, helping them hold down their job, and aspire to promotion, informing and advising on the implementation of different technologies and techniques in learning and work and offering them technical support, monitoring and evaluation of the effectiveness of their work.

Different tailored measures are taken by the Employment Office to suit this category of people:

- Pilot program "The implementation of the Law on professional rehabilitation and employment of disabled people"

To implement this Law, that is, to facilitate successful professional rehabilitation and increase

the employment of disabled people by achieving their equal status on the job market, this program was launched in 2009, and lasted for six months.

The unemployed who participated in this program were mainly involved in the module for evaluating the level of incapacity of disabled people to determine what that person is capable of doing after which proper measures and activities would be defined for the inclusion of these people into the job market (measure of action employment policy or into further process of professional rehabilitation). A hundred and ten people were covered by this program in 2010; fifty one of them were women (46, 36%)

- *The implementation of the Law on Professional Rehabilitation and Employment of Disabled people in practice - blind and partially sighted*

Seven blind and partially sighted people participated in this program. The aim of this program, which lasts two months, from the standpoint of an individual is overcoming blindness as a communicative and mobility obstacle, reorganization and reorientation of life after being stricken with blindness, enhancing opportunities for potential future participation in training, educational and employment programs, adopting basic social and life skills and recognizing personal obstacles to finding a job. One woman participated in this program.

- Seminar for the hearing and speech impaired

A seminar for long time unemployed people was organized for the hearing and speech impaired people in 2010. Thirteen people, 9 of them (69.23%) being women, recorded at the Employing Agency, participated in this seminar which lasted 4 weeks. The attendees of the seminar were provided with assistance by a professional for the work with people with special needs, specialized in working with long time unemployed people. The aim of the seminar, from the standpoint of an individual, was acquiring necessary skills for actively taking control of their own personal career by recognizing their skills and strong points, as well as weaknesses, and enhancing motivation through the analysis of their own potentials.

- *Program "Social inclusion of disabled people"*

Twenty one people participated in this program, whose level of incapacitation was evaluated by the implementation of the Law on professional rehabilitation and employment of disabled people to be more than 70%. The participation of women was 66, 66% (14 women). The program was designed as a group work, in which, through making souvenirs (clay objects, various souvenirs), the attendees worked on improving their work skills, increasing their self-respect, taking responsibility for shaping their own future and solving problems on their own.

- Group work "Sunny workshop"

This project has been ongoing for several years and includes the manufacturing of souvenirs, greeting cards, decoration and paper stationery, for New Year and Women's Day. Between 50 and 80 people participate in this project every year. This way the participants improve their dexterity, work, social and communication skills along with getting income from these temporary jobs. Sixty nine people were included in this work, 53.8% of them being women.

- Financial incentives to entrepreneurship amongst disabled people

Bidding for preferential loans intended to stimulate employment and entrepreneurship among disabled people was opened in the beginning of 2010.

Four applications for the employment of six people, 4 of them being disabled people (three women), were submitted over the course of the previous three years. All the requests were granted.

- Subsidising disabled people's wages

During last year, eight employers claimed from the Employment Agency subsidies on the wages of disabled people they hired. The claim included eight people, three of them being women (37.5%). The subsidies are significant, with 80% of the gross salary paid to those people in the first year, 60% in the second year, and 50% in the third and every subsequent year.

XXII According to the Labour Law (Official Gazette of the republic of Montenegro, issue 49/08), the employer is required to ensure that the disabled person is given a job which is adequate to their level of incapacitation. If there is no such job position within the company, and their rights cannot be secured in accordance to the provisions of the law on employment and professional rehabilitation of disabled people, the disabled employee is entitled to

severance pay in the amount of at least 36 average months pay, in case the disability is caused by an injury at work, or 24 average months pay if the incapacitation is caused elsewhere or by illness. (Official Gazette of Montenegro, issue 49/08).

The Law on professional rehabilitation and employment of disabled people provides provisions for specific measures and incentives for the hiring of disabled people, as well as for subsidising them. The Law created conditions for the increased employment of disabled people and their better prospects in the job market, removing barriers, and providing equal opportunities of employment for this group. The Law prohibited direct or indirect discrimination of the disabled in professional rehabilitation, employment, and in the course of their employment. A disabled person may be employed under general or special conditions. Employment under general conditions means that a disabled person competes on the open job market, while employment under special conditions implies work in special organisations, when the health and work ability of the person prevents them from finding a job on the open market. To create conditions for successful professional rehabilitation and employment of the disabled, the pilot programs: "Implementation of the Law on professional rehabilitation and employment of disabled people in practice", "Sunny workshop", "Social inclusion of disabled people". The program of preferential loans for stimulating employment and entrepreneurship of the disabled was launched, as well as the program of subsidizing wages of disabled people and financing equipment for making the workplace accessible to the disabled. In 2010, "Career fair for the disabled" was held for the first time, which helped in facilitating the contact between employers and disabled people, promising more employment of the disabled for the next year.

Recommendations from IDA:

- Repeal restrictions in the Law on the Election of Councillors and Representatives (Article 11) excluding persons who have been deprived of their legal capacity ("business capacity") from the right to vote and stand for election on an equal basis with others in accordance with Article 29 of the CRPD, which comprises the latest international standards with respect to participation in political and public life.
- Collect adequate data on women and girls with disabilities and use disaggregated data and results of studies to develop policies and programmes to promote equal opportunities for them in society
- Adopt measures to ensure that women with disabilities are consulted and participate in leadership roles in policy development.
- Raise awareness and provide more information about women and girls with disabilities, who are often subjected to multiple forms of discrimination, especially with regard to access to education, employment, access to health care and protection from violence.
- Ensure the provision of reasonable accommodation in employment and vocational training for women with disabilities, including accommodations for different types of disabilities.
- Address the heightened risk for girls and women with disabilities of becoming victims of domestic violence and abuse, and adopt urgent measures to ensure that both services and information for victims are made accessible to women and girls with disabilities.
- Ensure the provision of support services, including psychosocial support services, to assist families, including both mothers with disabilities, and mothers or women in the family who are the lead caregivers in their care for children with disabilities. In particular, ensure that services and assistance are rendered to permit women in families with children with

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

- 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 not permitted by law in accordance with the latest international standards.
- Adopt measures in the law to ensure the implementation of inclusive education of children with disabilities, such as the obligatory training of all teachers (beyond special education teachers), to require individual education plans for all students, ensure the availability of assistive devices and support in classrooms, educational materials and curricula, ensure the accessibility of physical school environments, encourage the teaching of sign language and disability culture, allocate budget for all of the above. Include inclusive education as an integral part of core teacher training curricula in universities to ensure that the values and principles of inclusive education are infused at the outset of teacher training and teaching careers.
- Adopt measures to ensure that all information, healthcare and services relating to sexual and reproductive health, both including physical treatment and psychological counselling, are made accessible to women and girls with disabilities, and that they are respectful of the dignity and integrity of persons with disabilities based on the free and informed consent of the individual concerned, and that consensual treatment such as the administration of contraception, or fertility treatments are not denied, while all non-consensual treatment, including that for which consent is given by a third party, is not permitted by law (including *inter alia* forced abortions, forced contraception, and forced sterilisation).