



NGO information submitted to the UN Committee on the Rights of Persons with Disabilities

For consideration when compiling the List of Issues Prior to Reporting (LoIPR)
on the Periodic Reports 2 - 4 of the Republic of

SLOVENIA

under the Convention on the Rights of Persons with Disabilities

Submitted by

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I. Overview and Summary

1. This submission aims to furnish information to the Committee on the Rights of Persons with Disabilities in preparation for the adoption of a List of Issues Prior to Reporting (LOIPR) concerning period reports 2 - 4 of the Republic of Slovenia as a party to the Convention on the Rights of Persons with Disabilities (CRPD).
2. The submission focuses primarily on the right to independent living (article 19 of the CRPD) and the ongoing problem of deinstitutionalization (DI) in Slovenia. It voices concerns of civil society over inadequate and ponderous DI processes and the lack of transparency of the deinstitutionalization in Slovenia and underlines institutional incapacity and unwillingness of the State Party to give proper effect to the CRPD. Part II of this submission provides some issues that civil society and persons with disability observe and Part III contains indications of violations and non-compliance of legislation and practice with the CRPD.
3. With full realisation of the complexity of the task, we welcome recent activities of the state towards reforming the social security system. However, there are visible shortcomings of this process which seriously impede compliance with the CRPD in many actions regarding deinstitutionalization.

In Slovenia, institutions are still the central form of organised care for adult people who need long-term support. Due to the high level of institutionalisation in Slovenia, many issues related to ensuring the rights of people with disabilities are also closely related to institutional care and the deinstitutionalization process, which is not nearly dynamic enough or even moving in the right direction. Policy and regulation design relating to deinstitutionalization procedures take place behind closed doors, excluding civil society and persons with disability who should be key figures in DI processes. Substantial EU funds are still being invested directly in institutions or indirectly through creating parallel systems which only seemingly introduce community living. National legislation relevant to deinstitutionalisation is in places conflicting or even mutually exclusive and relies heavily on institutions as service providers, which perpetuates the cycle of social exclusion and contradicts the right to choose and live independently in the community.

4. We are writing as part of an informal coalition of NGOs, independent experts and experts with experience who are active in the field of support and protection of people with disabilities. Our coalition not only comprises grassroots NGOs and experts but also persons with disabilities with the experience of living in institutions as well as the experience of transitioning to and from community. We strive to draw attention to the need for a transparent DI that should be in alignment with the purpose and nature of the provisions of the CRPD and whose ultimate goal should be to fully exercise the right to independent living.
5. The submission has been prepared by PIC Ljubljana, Institute RISA and the Validity Foundation in cooperation with independent experts and persons with disabilities.

PIC - Legal center for the protection of human Rights and the environment is an NGO, non-profit, with the statuses of acting in the public interest in areas of international protection and environmental protection. Our main mission is acting in the field of human rights protection through free legal aid to persons with disabilities and other vulnerable individuals and groups, through advocacy and through activities related to legislative change. We strive for the effective protection of rights, strengthening of civic dialogue, active civil society involvement in decision-making processes and for simpler and more comprehensible legislation. We cooperate with domestic and foreign organisations and carry out activities through national and international projects which, in addition to working on individual legal cases, include analyses of domestic legislation and comparative analyses as incentives for change or implementation of new legislation.

RISA - Centre for general, functional, and cultural literacy is an NGO in the public interest in the fields of culture and social welfare. The programs, co-created and co-led by the end-users, take the empowerment perspective, and aim to protect people's fundamental rights and dignity, including advocating for destigmatization and deinstitutionalization. In search of effective, optimal solutions, resources and approaches, RISA cooperates with a variety of organisations with similar advocacy agendas from Slovenia and abroad, as well as the local communities in which the program beneficiaries live. One of the NGOs central programs is Risnica - Independent advocacy for independent living for people who have complex needs and are often facing multiple discrimination.

Validity Foundation – Mental Disability Advocacy Centre is an international non-governmental human rights organisation which uses legal strategies to promote, protect and defend the human rights of adults and children with intellectual and psychosocial disabilities. Validity's vision is a world of equality where emotional, mental and learning differences are valued equally; where the inherent autonomy and dignity of each person are fully respected, and where human rights are realised for all persons without discrimination. Validity holds participatory status at the Council of Europe, and special consultative status at ECOSOC.

II. List of issues

6. In Slovenia there still persists a chronic lack of awareness among decision makers about the obligations of the state under the Convention in all areas of life and particularly in the area of deinstitutionalization (DI). The notion of deinstitutionalization derives from a historically rooted conviction of institutional care and the existence of institutions being a right, rather than it being conceived as a violation, which it is. This belief is woven not only into the collective consciousness but also into the documents and policies created to ensure the protection of persons with disabilities, their social inclusion and social protection. For instance, the national Action Programme for Persons with Disabilities 2022-2030¹ still includes living in an institution as an option, even as a right, as in the

¹ <https://www.gov.si/zbirke/projekti-in-programi/akcijski-program-za-invalide/>

introduction, the Action Programme states that one of its tasks is special care for institutional protection. Which puts it in direct violation of article 19 of the CRPD. Action Programme text even creates the narrative that institutional living may be the individual's choice. We need to comment that it is very precarious to call it a "decision" given that there are yet to be created viable alternatives to institutional living and that the obvious lack of community-based services pushes people into institutions.

7. There has been no significant progress in the area of DI in Slovenia. The state has not adopted a comprehensive DI strategy or put together time-defined action plans. A review of the media and some other informal tidbits of information might indicate that there is a DI strategy in work, being prepared at the Ministry of Labour, Family, Social Affairs and Equal Opportunities in cooperation with the Slovenian Institute for Social Protection, but there has been no public announcement or invitation extended to people with disabilities, NGOs or civil society to be included in the process of creating the strategy.

Ministry of Labour, Family, Social Affairs and Equal Opportunities² together with the project partner, the Social Protection Institute of the Republic of Slovenia³, is carrying out an operation titled "Implementation of Deinstitutionalization Task Force", the key purpose of which is to provide the basis for the completion of the DI process and establish an integrated DI system in Slovenia. There have not been any public announcements on progress or results of this operation.⁴

8. In an effort to tackle the issue of DI, there are individual pilot projects, operations and other undertakings being carried out but, in our opinion, they are not in the best interest of DI that would be compliant with the CRPD and Guidelines on DI⁵.

- For instance, a pilot project titled "Development and testing of social inclusion services for persons with disabilities" was commissioned by the Ministry of Labour, Family, Social Affairs and Equal Opportunities that lasted from the middle of 2020 and lasted until March 2022.⁶ Although the project reports on positive outcomes, it actually reveals shortcomings of existing legislation and points to the state's cumbersome attempt to provide services in the community.

The project was aimed at the development and pilot testing of social inclusion services for persons with disabilities in accordance with the [Social Inclusion of Disabled Persons Act](#), the results of which should be the basis for creating a national system of providing social inclusion services for persons with disability. However, [Rules on social inclusion](#)

² <https://www.gov.si/zbirke/projekti-in-programi/projekt-na-enota-za-deinstitucionalizacijo/>

³ <https://irsv.si/institut-republike-slovenije-za-socialno-varstvo/socialne-zadeve/deinstitucionalizacija/>

⁴ The project is funded from the [Operational Programme for the Implementation of the EU Cohesion Policy in the Period 2014-2020](#)

⁵ [Guidelines on deinstitutionalization, including in emergencies](#) (committee on the Rights of Persons with Disabilities, 2022)

⁶ The project was implemented and reported by the Social Protection Institute of the Republic of Slovenia, report accessible at: <https://irsv.si/zakljucno-porocilo-pilotnega-projekta-razvoj-in-preizkusanje-storitev-socialnega-vkljucevanja-invalidov/>

[services for persons with disabilities](#)⁷ (the Rules) were prepared even before the project ended (and adopted right after the end of the project in April 2022), not taking into account its results.

The project report⁸ contains comments from providers of social inclusion services, who state that they were completely excluded from the rulemaking process and that provisions of the Rules in their opinion are not optimal. Mainly because the Rules regulate the access and implementation of services too rigidly and significantly limit adapting services to the individual user including the insufficient amount of services⁹. Also, service providers highlight the inadequate legal basis for providing services and insufficient payment as problematic, as this will have a negative impact on the establishment of a stable network of service providers.

However, what is most concerning and is not mentioned in the report is the fact that service providers are the institutions themselves. It derives from Article 11 of the Rules on social inclusion services for persons with disabilities¹⁰. This means that the paramount part of DI (services that should enable individuals to live independently in the community) is conducted by institutions which creates an obvious conflict of interests as institutions have the vested interest to protect their existence and methods of work.

Therefore, it is unsurprising that in terms of the share of activities and services that were performed as inclusion services during this project, the implementation of assisted living services significantly lead (79.80% of all services), and the largest part of services in this context are leisure activities, sports and social companionship. On the other hand, only 1% of the performed activities represented training services for independent living¹¹.

- There are also two very publicised pilot projects aiming at complete dismantling of the institutions but are in effect more consistent with the concept of decentralising large-scale institutions and creating small-scale institutions.

Centre for Training, Work and Care Črna na Koroškem¹² and Institution Dom na Krasu¹³ are the subject of ongoing pilot projects designed to establish smaller residential groups, which will be supported by services for the independent living of users. But

⁷ *Pravilnik o storitvah socialnega vključenja invalidov; Uradni list RS, nr. 58/22*

⁸ report accessible at: <https://irssv.si/zaključno-porocilo-pilotnega-projekta-razvoj-in-preizkusanje-storitev-socialnega-vključenja-invalidov/>

⁹ More on this in paragraph 9 of this submission.

¹⁰ Article 11 specifies that service providers are institutions that provide guidance, care and employment services under special conditions, or care and work centres, training institutes and organisations that provide services for persons with acquired brain injury or impairment.

¹¹ This is also due to the fact that the Rules limit the number of hours allocated for training services for independent living as it is designed only as a few-hour training which is nearly not enough.

¹² <https://www.cudvrna.si/projekti/evropski-projekti/deinstitucionalizacija-cudv-crna-na-koroskem/>

¹³ <https://www.domnakrasu.si/preobrazba/vzpostavitev-stanovanjskih-bivalnih-enot/>

despite being promoted as activities providing adequate social infrastructure for independent living, it rather creates concern that these housing units, geographically and effectively connected to the institution, are mirroring institutional ways of life with limited possibilities for independence of its users. During the three years, these programs have been in place, services in the community have still not been developed, with institutional culture and way of work still persisting, locking users out of real independence from institutions.

9. It is extremely worrying how much funds are available to invest in existing institutions. And despite the fact that these are projects that take place within the context of deinstitutionalization processes, they are flagrant violations of the provisions and spirit of the CRPD, as they are actually investments in institutional settings (construction or renovation). We found some examples listed in the table below:

Original title; year	English translation	Financer; EUR	Tendering agent	Concerns	Direct link	Approved projects (focus)
Javni razpis za sofinanciranje vlaganj v infrastrukturo za krepitev odpornosti izvajalcev institucionalnega varstva, upoštevajoč deinstitutionalizacijo; 2021 (2021-2023)	Call for proposals to co-finance investments in infrastructure to strengthen the resilience of institutional care providers in the context of deinstitutionalization. 2021 (2021-2023)	EU (ERDF); 93.000.762	Republic of Slovenia, Ministry of Labour, Family, Social Affairs and Equal Opportunities	"The call for proposals is not intended to strengthen institutionalisation and capacity building, but to address critical situations, to cover gaps and to ensure adequate standards in existing social care institutions, and to support the process of deinstitutionalization, which is the key focus of the call." "Strand 1: Adaptation of existing infrastructure Under Strand 1, projects will be co-financed which contribute to at least one of the following objectives: the objective of the call for tenders: improving the living standards of residents by removing rooms with three or more beds, ensuring the separation of clean and unclean routes, creating grey and red zones." "Strand 2: New construction of homes for the elderly (replacement)	https://www.gov.si/zbirke/javne-objave/javni-razpis-za-sofinanciranje-vlaganj-v-infrastrukturo-za-krepitev-odpornosti-izvajalcev-institucionalnega-varstva-upostevajoc-deinstitutionalizacijo/	Facility constructions (new constructions), Upgrading and renovation of facilities

				Under Strand 2, projects will be co-financed which contribute to at least one of the following objectives the objective of the call for tenders: improving the living standards of residents by removing rooms with three or more beds, ensuring the separation of clean and unclean routes, creating grey and red zones."		
Javni razpis za sofinanciranje gradnje objektov za zagotovitev varnega okolja bivanja za osebe, ki so odvisne od pomoči drugih; 2022; (2022-2026)	Public call for tenders for the co-financing of the construction of facilities to provide a safe living environment for people who are dependent on the assistance of others; 2022	Budgetary fund for recovery and resilience ; 65.711.000	Republic of Slovenia, Ministry of Labour, Family, Social Affairs and Equal Opportunities	Construction of facilities aimed at providing a safe living environment for people who are dependent on the help of others. construction (building, craft and installation works), external arrangement and equipment of the facilities, which will be built as small independent living units (up to 24 people)	https://www.gov.si/zbirke/javne-objave/jadodaj-javna-objava/	Facility construction (new constructions) – building new housing units
Total in EUR for both examples		158.711.762				

- The state also co-financed the construction of seven dislocated housing units¹⁴ of the Social Care Institution Hrastovec with 4 million euros¹⁵, as it is the government's opinion that the project is well-designed and it can serve as an example of good practice and that this is the right path for what the future of such institutions should look like¹⁶.

10. We would also like to highlight our concern relating to complex national legislation that regulates the protection of persons with disabilities and is detrimental to efficient DI process. Not only are there multiple laws regulating status and rights of persons with disability which often creates confusion, impedes access to justice (article 15 of the CRPD) and is also in violation of article 21 of the CRPD as it is substantially more difficult to access information about disability and other rights when they are scattered in numerous laws

¹⁴ Naming them Dom Lenart (Lenart Home).

¹⁵ <https://www.hrastovec.org/index.php/aktualno/novice/1093-gradnja-novih-enot-zavoda-hrastovec-lepo-napreduje>

¹⁶ <https://www.hrastovec.org/index.php/aktualno/novice/1094-minister-luka-mesec-obiskal-svz-hrastovec>

and other regulatory documents. Moreover, provisions of different laws are sometimes conflicting or mutually exclusive.

National legislation relevant to deinstitutionalisation and inclusion of persons with disabilities, particularly the Social Inclusion of Disabled Persons Act and related Rules, the Personal Assistance Act, Social Assistance Act, Long Term Care Act, and Family Code, have several critical issues that hinder deinstitutionalization and social inclusion. The main problem lies in the rigid and disjointed approach to providing support services for persons with disabilities.

In certain parts, the legislation suffers from lack of flexibility, inadequate support services, overreliance on institutions and the continuation of the guardianship system, all of which impede the progress of deinstitutionalization and social inclusion for persons with disabilities in Slovenia.

- One of the significant issues is the inability to combine different services from different laws. For instance, a person with an intellectual disability cannot combine personal assistance services with assisted living services provided by social inclusion act, resulting in a lack of comprehensive support tailored to individual needs and supports the existing system in which the individual is dependent on institutional care¹⁷.
- It is also crucial to point out discriminatory treatment of persons with psychosocial disabilities who cannot obtain the disability status in accordance with the Social Inclusion of the Disabled Persons Act and are thereby completely denied access to social inclusion services based on this law as disability status is a prerequisite of eligibility.
- Additionally, the allocated hours for training for independent living and supported living services under the Social Inclusion of the Disabled Persons Act are woefully inadequate, leaving people with disabilities with insufficient support to live

¹⁷ We consider the long-awaited [Social Inclusion of Disabled Persons Act](#) that replaced the obsolete [Act on Social Care of Persons with Mental and Physical Impairments](#) from 1983 to be positive. However, current [Rules on social inclusion services for persons with disabilities](#) (the Rules) that regulate in more detail the implementation of social inclusion services, providers of social inclusion services, and other services from the Act, are severely deficient as it is not allowed a person to combine different services from different laws, pushing the person into a system regulated by a single law and negating the needs of the person as a starting point. E.g., a person with intellectual disability cannot combine the services of personal assistance with the services of assisted living from the Social Inclusion of Disabled Persons Act that include essential support like – “information and support on personal matters, advice and support in planning and carrying out daily life tasks, socialising and encouraging integration into the environment and expanding social networks” which are not provided within the personal assistance services. This does not allow the person to have a wholesome support service system, tailored to their individual needs.

independently and potentially forcing them into institutional care against the principles of deinstitutionalization¹⁸.

- Moreover, the legislation relies almost exclusively on institutions as service providers, which perpetuates the cycle of social exclusion and contradicts the right to choose and live independently in the community¹⁹. Transforming these institutions is necessary to prioritise the needs of people with disabilities effectively. The Rules dictate that social inclusion services, except for day programmes for older persons with disabilities, are provided by institutions – the very environments of social exclusion, which are characterised by traditional institutional practices. With this, the person is dependent on one institution for all the services they need, which is paradoxical and not in line with the right to choose. We understand that there is a need for institutions to transform their services, but we point out that, in accordance with the CRPD, Guidelines on DI²⁰ and other binding documents, it is necessary to put the needs of people with disabilities in the foreground.
- Additional irregularities also hide within the regulation of services under the [Social Assistance Act](#) as it introduces social assistance programmes rather than individual services. This means a more rigid design with no customization options. Also, the law doesn't stipulate the obligation of providers to include every interested individual in the programme, which means that in practice it often happens that the provider can reject an individual whom it considers unable to adapt to the programme. Instead, the law should provide an extensive range of different individual services, which should primarily be accessible to everyone, with the possibility of combining and tailoring services to meet the needs of the individual user.

¹⁸ Based on research and practice, we assess the number of hours provided by the Article 6 of the Rules to be significantly too low. 2 hours or 12 hours of training for independent living for people with cognitive disabilities, e.g., intellectual disabilities, who usually need information in an adapted format, e.g., Easy-to-read, and more time for processing information and experiences, can only suggest getting basic information about the service, not nearly enough to build a foundation to even start exercising the right to independent living. The same goes for the eligible hours of assisted living services provided in Article 8 of the Rules to be far below what is required for an independent living. People with disabilities and their relatives are very often confronted with fears about the future and strong needs for support in planning and implementing independent living. The hours envisaged are far from being an acceptable alternative to institutional care, which provides up to 24 hours of service per day. In our view, in the absence of real choice, people will consequently be forced to accept living in an institution, which is contrary to the principles of DI and in direct violation of the CRPD and even with the Action Programme for Persons with Disabilities 2022-2030 that states that persons with disabilities should be "enabled to make independent choices about how, where, with whom and in what way they live, ensuring that the living environment is accessible to all and adapted to the needs of persons with disabilities and their families, regardless of whether they choose to live independently in a residential building or in an institutional setting".

¹⁹ As already mentioned in Paragraph 8, rules specifically regulate institutions as the only service providers.

²⁰ Guidelines on deinstitutionalization, including in emergencies (2022) explicitly state that "Processes of deinstitutionalization should be led by persons with disabilities, including those affected by institutionalisation, and not by those involved in managing or perpetuating institutions."

- Furthermore, the Long-Term Care Act's inclusion of institutional care as a recognized right is not in line with global guidelines advocating for deinstitutionalization and community-based care.

The very recently adopted [Long-Term Care Act](#) (which is still not in force in its entirety) is not in accordance with the UN and European guidelines on the rights of older persons and people with disabilities that require deinstitutionalisation, namely the first of the long-term services that the Act names and enables fall under institutional care (alternatives are home care, family carer or cash benefit). This Act, still, treats institutional care as a right and not a violation of rights as defined by the Guidelines on DI.²¹

- Another concern to be addressed is connected to the [Family Code](#) that contains the regime of guardianship.²² Institutionalisation is closely connected to guardianship. In Slovenia, more than 50% of people living in institutions are placed under some form of guardianship. Most guardians have extended parental rights (47.3%)²³.

The Family Code's institute of guardianship needs to be eliminated and substituted by independent advocacy and supported decision-making services to ensure the rights and best interests of persons with disabilities are upheld²⁴.

- Dwelling deeper into the system, which seems to force people with disabilities into a passive role and deprives them of their voice, we find guardianship to be connected to the right to vote. As of January 2023, e.g., voting rights were revoked for 3,505 citizens of the Republic of Slovenia²⁵. The grounds for revocation of the right included the individual's disability. At the very least, this directly violates the Constitution of the Republic of Slovenia and the Convention on the Rights of Persons with Disabilities and calls for an amendment of the [Law on Elections to the National Assembly](#) to implement Article 29 of the Convention on the Rights of Persons with Disabilities and to prevent discrimination on the grounds of disability.

The number has been steadily rising in the past years. According to the data of the Ministry of the Interior, over 2.000 Slovene citizens were prevented from voting in the May 2019 European Parliament elections, including on the grounds of disability. At the

²¹ "States parties should recognize that living independently and being included in the community refer to life settings outside residential institutions of all kinds, in accordance with article 19 of the Convention. Regardless of size, purpose, or characteristics, or the duration of any placement or detention, an institution can never be regarded as compliant with the Convention."

²² Recognized in Article 11 as "…/ a special form of care for children who are not cared for by their parents and for adults who are unable to care for themselves, their rights and their best interests. (2) Under the provisions of this Code, the State shall also provide protection to other persons who are unable to look after their own rights and interests."

²³ IRSSV, 2022

²⁴ As per article 12(3) of the CRPD "substitute decision-making regimes", like guardianship, should be erased and persons with disabilities should get the support they need in the form of "supported decision-making".

²⁵ Source: Murgel Jasna, Ali je Slovenija Konvencijo o pravicah oseb z invalidnostjo ratificirala s figo v žepu?, Revija Odvetnik, nr. 104, 2022, pg. 33.

time of the parliamentary elections in April 2022, the number of disenfranchised citizens was more than 3000. On 13 January 2023, there were already 3.505 such citizens.

III. Articles of the Convention

11. Article 4: General obligations

Disability policy in Slovenia is not provided for in a single, overarching law, but is regulated in different laws from various departments. This fragmentation is also evident in the approach to deinstitutionalization, as there is no joint approach to the subject but is rather being tackled individually from different departments (social protection, health care, disability protection) when indeed a coordinated line of action is needed. This not only has an inhibitory effect on DI processes but also creates incomprehensive solutions.

There is a lack of an explicit policy, strategy and measures of deinstitutionalization. The State Party has yet to adopt appropriate legislative, administrative and other measures to set the basis for an efficient deinstitutionalization. The process needs to be transparent, coordinated and inclusive to people with disabilities who need to be recognised as an equal partner in decision making processes.

Suggested questions:

- How will the State Party ensure a transparent process of DI from the formulation of strategy and policies to their execution?
- How will the State Party ensure the inclusion of persons with disabilities and civil society in the processes of adopting relevant policies?
- What is the status of the Deinstitutionalization Task Force and has it already started operating?

12. Article 5: Equality and non-discrimination

Institutionalisation is a form of segregation and as such discriminatory and in direct violation of article 5. In order for persons with disabilities to escape or avoid institutions, adequate community-based services and social inclusion services need to be established. Since national legislation regulating protection of persons with disabilities is fragmented, people with disabilities don't have the same access and eligibility for rights. As already explained in paragraph 10 of this submission, persons with psychosocial disabilities are not eligible to apply for social inclusion services under the Social Inclusion of the Disabled Persons Act.

Suggested question:

- How will the state regulate different types of disability and provide equal treatment, opportunities and rights to all persons with disabilities?

13. Article 12: Equal recognition before the law

In Slovenia, guardianship prevents persons with disabilities to enjoy legal capacity on an equal basis with others and the state should adapt legislation and provide independent advocacy and supported decision making to accommodate this right. It also impedes on the right to vote.

Suggested questions:

- What steps have been taken by the State Party in order to eliminate guardianship and provide independent advocacy and supported decision-making?
- What steps have been taken by the State Party to amend the Law on Elections to the National Assembly to no longer allow disenfranchisement on the grounds of disability?

14. **Article 19: Living independently and being included in the community**

Developing a range of community-based services that people could choose from and combine according to their own needs and preferences is a prerequisite to living independently.

Suggested Questions:

- How will the State Party provide a set of services that will be accessible to everyone who needs them and can be combined and adapted to meet the individual needs?
- How will the State Party ensure the people who need services will be able to freely choose an independent provider?
- How will the State Party ensure that EU and other funding will no longer pour into institutions?
- What are the plans of the State Party to prevent large-scale institutions from simply fragmenting into small-scale institutions that will be entitled to funds under the pretext of DI, while still maintaining the institutional way of existing?
- What are the plans of the State Party regarding the adoption of a DI plan that is in line with the CRPD and the CRPD Committee's Guidelines on deinstitutionalization, including in emergencies?