

IMPLEMENTATION OF THE UNITED NATIONS CONVENTION
ON THE RIGHTS OF PERSONS WITH DISABILITIES IN
SLOVAKIA

ALTERNATIVE REPORT FOR THE UNCRPD COMMITTEE PROPOSED
BY THE DPOs IN THE SLOVAK REPUBLIC

JULY, 2019

Submitting organisations and authors

The Slovak Disability Council (Branislav Mamojka, Michaela

Hajduková) was established in 2003. It has 18 member organisations and DPOs representing all types of disabilities. The mission of the Slovak Disability Council is to ensure that persons with disabilities have full access to all human rights through their active involvement in policy development and implementation in the Slovak Republic and in Europe. It participates in development and implementation of legislation, it is active in the Government Council for Human Rights, National Minorities and Gender Equality and especially in its Committee for Persons with Disabilities, and other advisory bodies and working groups. Its activities are based on principles of the UNCRPD. The Slovak Disability Council is a member of the European Disability Forum. Persons with disabilities constitute majority in all decision making bodies of the Slovak Disability Council and all its member organisations. The report has been drafted by the representatives of all types of disabilities or their parents.

Association for Help to People with Intellectual Disabilities in the Slovak Republic (Marián Horanič, Maroš Matiaško) www.zpmpvsvr.sk

Council for Counselling in Social Work (Miroslav Cangár) was created in 1990 and its main goal is to provide help for people in need, so they can be included to community and live an Independent life. RPSV fulfils its goals by providing advisory, supervision and education to people with special needs, especially people with severe degrees of disability and elderly people, providers of social services, state and non-governmental organisations, municipalities and other educators. The main strategic vision of RPSV is to support the process of changing quality of social services in society, realisation of transformation, deinstitutionalisation and decentralisation of social services, and community services development. RPSV realised first deinstitutionalisation projects in social services in Slovakia since 1999. For more information, please visit www.rpsv.eu.

Organisation of Muscular Dystrophy in the Slovak Republic (Tibor Köböl) is the only one specific non-governmental organization associating adult and children with neuromuscular disorders in Slovakia from 1993. Our activities: advocacy of rights of people with NMD, social services, social and peer counselling, magazine Echo, summer camps and a lot of others.

Platform of Parents of Children with Disabilities (Jana Lowinski) is parental NGO, which joins families of children with all the disabilities, collects their needs for change in social, health and education system. Platform provides peer counselling and advocates rights of children with disabilities e.g. for social services, education and independent life – building a bridge among them and the state institutions.

Slovak Blind and Partially Sighted Union (Milan Měchura) is a civic association that organizes blind and partially sighted people, their supporters, friends and family members. It focuses on advocacy of rights and interests of people with visual impairment. The organisation provides services (social counselling, social rehabilitation and other activities) aimed at independence improvement of blind and partially sighted people. At present, the organisation has more than 4000 members. It provides its services in all Slovakia regions.
www.unss.sk

SOCIA Foundation (Maria Machajdíkóvá) – Social Reform Foundation wishes to bring about changes in the social system through financial support and its own activities for the benefit of social groups that are most at risk. The vision of SOCIA Foundation is a tolerant civic society with disadvantaged and endangered people as their integral part. The collaboration of “weaker and stronger” should result in building quality and accessible social services - services that meet the individual needs of their beneficiaries in their natural environment. SOCIA provides grants for non-profit organisations and individuals to improve the quality of life of socially, physically and mentally disadvantaged groups. SOCIA has also own projects supporting community-

based services. SOCIA collaborates with NGOs and the public administration forming policies and legislative proposals to reform the social system, please visit www.socia.sk.

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Executive summary

This report contains the views of Slovak organisations representing persons with disabilities and other co-operating organizations. It presents level of implementation of the Concluding Observations issued by the UN Committee for Rights of Persons with Disabilities in April 2016. It also describes areas in which the law and practice still violate respective Articles of the CRPD. Our report also formulates topics for questions to be answered by the Slovak Government, including:

- Amending the Anti-discrimination Act to include definition of reasonable accommodation in all areas of life of persons with disabilities and to recognizing the fact that the rejection of the reasonable accommodation is considered discrimination based on disability.
- Ensuring availability and accessibility of early intervention services.
- Amending the "building" legislation to support and improving accessibility and ensuring that principle of universal design is fully respected. Introduction of appropriate control mechanisms and addressing the absence of authorised experts to assess accessibility.
- Finalizing a new Civil Code including a conception of legal capacity and the possibilities of its restrictions, as well as replacing the institutes of guardianship by supported-decision making. Abolishing all automatic consequences of deprivation and restriction of legal capacity.
- Ensuring the extension of deinstitutionalisation and enhancement of community based services.
- Amending the legislation aiming to increase the quantity of aids and services, and simplifying the conditions for granting allowances and discounts.
- Ensuring inclusive education for all children at all levels of education and transformation of the segregated special educational system.
- Taking measures to enable and support employment of persons with disabilities in the open labour market, promotion of the formation of job opportunities and financial contribution to the creation and sustainability of jobs.
- Ensuring appropriate standards of living and social protection.
- Creation and facilitating of the development of processes to enable organisations representing persons with disabilities to actively engage in the in the CRPD monitoring. Mainstreaming disability issues should be enhanced to ensure that people with disabilities are included in all programmes and policies throughout all the relevant sectors.

INTRODUCTION

This Report for the UN CRPD Committee is submitted by organizations representing the interests of persons with disabilities in the Slovak Republic. Being convinced that the Government of the Slovak Republic does not sufficiently meet the recommendations of the UNCRPD Committee, the above mentioned organizations decided to prepare a joint report responding above all to the Concluding Observations on the Initial Report of the Slovak Republic, issued by the Committee in 2016.

Several new issues related to the implementation of the UN CRPD have been described.

The most of 2016 Concluding Observations of the CRPD Committee have been incorporated into the updates 2016 and 2018 of the National Programme for Development of Living Conditions of Persons with Disabilities for Period 2014 – 2020.

Branislav Mamojka, Chairman of the Slovak Disability Council

SELECTED ARTICLES OF THE CRPD

Article 5 – Equality and Non-discrimination

Concluding Observations (CO) 13 – 20

The situation described in the paragraph 1 of the 2015 alternative report persists.

Act No. 365/2004 Coll. on Equal Treatment (the “Anti-discrimination Act”) has not been amended as the CRPD Committee recommended in its Concluding Observations No. 13 – 18¹. The legislation continues to lack the explicit definition of the reasonable accommodation in all areas of life of people with disabilities. It does neither recognize the refusal to provide reasonable accommodation as a form of discrimination based on disability, and nor multiple and intersectional discrimination. In case of the refusal to provide reasonable accommodation in areas other than employment (e. g. education, healthcare, cultural life), it is only possible to seek remedies based on the UNCRPD where it defines the rejection of reasonable accommodation as discrimination in its Article 2.

In the national legislation, it should be clarified what exactly reasonable accommodation means in different situations and thus, it will not be necessary to address the difficult issue of the enforceability of the Convention in a discrimination dispute.

Proposed questions:

- How and when does the Government plan to amend the antidiscrimination legislation to ensure that the obligation to provide reasonable accommodation relates to all areas of life of people with disabilities and recognise the fact that its refusal is considered discrimination based on disability, and to include multiple and intersectional discrimination.

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https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fSVK%2fCO%2f1&Lang=en

Article 7 – Children with disabilities´

CO 23 – 26

There is no official register of the number of children with disabilities in Slovakia who are entitled to early intervention services. However, the experts estimate that the rate of children with disabilities and children whose development is at risk is 3.5 %. Thus, we believe that there live approximately 14 000 children with disabilities under 7 years of age in Slovakia².

In the recent years, provision of the early intervention service has increased (30 providers in December 2018). In spite of that, it was only available for 1 219 families at that time³.

The inter-ministerial cooperation and creation of the complex network of services – health, social and educational is still lacking. The ministry of Labour, Social Affairs and Family created a working group in 2018 to deal with these problems. Unfortunately, there are no results of their work present. Neither has it been clarified if children whose development is at risk due to their social disadvantages are entitled to the early intervention services as well. The consequences become evident when they start their compulsory primary education and they are diagnosed as children with intellectual disability (such as marginalized Roma communities)⁴.

Proposed questions

- Pursuant to the concluding observation No 26, please explain what measures the State will take to ensure a holistic and comprehensive network of health and social care services.
- Inform on the availability of the early intervention service, its timeframe and financial framework to ensure its availability.

² https://asociaciavi.sk/wp-content/uploads/2019/02/Spr%C3%A1va_o_stave_v%C4%8Dasnej_intervencie_na_Slovensku_2018.pdf

³ https://www.employment.gov.sk/files/slovensky/ministerstvo/analyticke-centrum/2019/material_sprava_o_soc_situacii_obyvatelstva_sr_2018_vlada.pdf

⁴ <https://dennikn.sk/blog/1402821/diagnoza-mentalneho-postihnutia-ako-nastroj-vylucenia/>

- What steps will the State take to ensure that the early intervention services for children from marginalized environments prevents them from acquiring disability?

Article 9 – Accessibility

CO 29 – 33

There is no positive development in the area of accessibility described in the 2015 alternative report (paragraphs 3 – 7).

The act No. 50/1976 Coll. on Land-Use Planning and Building Order (the Building Act) and in the Decree No. 532/2002 Coll. detailing the general technical requirements for the construction of and usage of buildings by persons with reduced mobility and orientation have not been amended.

The new Building Act prepared in 2015 was withdrawn from the legislative process because of high number of comments. At present the draft Act on Land-Use Planning and Building Order is currently pending. There is a positive development that accessibility is required not only for buildings constructed to be used by persons with reduced mobility and orientation, but also for all buildings to be used by public in general. However, there still have been other shortcomings:

- It does not introduce assessment of the project accessibility by experts licensed in the field of assessment barrier-free buildings.
- It does not contain any sanction mechanisms for non-compliance with the principles of accessibility in case it is proved that the building authority granted approval for the construction that does not meet the requirements for the barrier-free use.
- It does not contain uniform criteria that entitle the operator of the construction mark the construction with the accessibility symbol.

There is a critical lack of affordable rental flats accessible for people with disabilities. However, there are rental flats intended for people with a low income and some of them are accessible. People with disabilities however cannot rent these flats in case their income has grown over the fixed threshold

which. On the other hand, their income is not high enough to rent of standard barrier-free flat or take a mortgage.

The Ministry of Transport and Construction has created the working group for drafting of the concept paper for the area of housing. The DPOs are convinced the concept paper should also deal with solving the problem described. The request of DPOs to have their representatives in the working group has been rejected.

Transport accessibility has improved especially in the areas regulated by the EU regulations on the rights of passengers in the air, rail, and bus transport. The domestic rail and bus transport for shorter distances and public transport inside and outside the city areas which are not regulated by the European legislation are still problematic. Making related transport buildings accessible is slow and uneven. Introduction of vehicles meeting the accessibility requirements (including low-floor vehicles, internal and external voice signalling for people with visual impairments, visual signalling for people with hearing disabilities), is largely dependent on the financial prospects of the country, the will of governing bodies and the support of the European structural and investment funds. The legislation defining the deadline until when it is possible to operate vehicles not meeting the accessibility requirements and the deadline after which it will not be possible to launch new vehicles not meeting the accessibility criteria, has not been set.

Making the Internet, mobile applications and information system accessible to people with disabilities is regulated by the new Act no. 95/2019 Coll. on Public Administration Information Systems and the Decree 55/2014 Coll. on Standards for Public Administration Information Systems. The WCGA 2.1 recommendations and the EU Directive no 2016/2102 on the accessibility of the websites and mobile applications of public sector bodies are incorporated into the legislation.

We have succeeded in enforcing the provision in the Act No. 131/2002 Coll. on Higher Education in accordance with which "the public school of higher

education is obliged to comply with the accessibility and operability standards for its websites and mobile applications, as well as with minimum requirements for the content of websites” in compliance with the above mentioned legislation.

There is a shortcoming, however, that inaccessible information systems are still used by natural and legal persons to communicate with the public administration in spite of the fact that this is prohibited by the National Program for Development of Living Conditions of People with Disabilities approved by the Government.

The standardized on-line income tax declaration (tax return form) or electronic billing machine are examples. There is another shortcoming that the accessibility provisions mentioned have a form of recommendations in case of the private sector including e. g. electronic banking, which is often not accessible in spite of the fact it d has been required by the public administration.

Proposed questions

- How and when does the State plan to introduce the institute of the expert licensed in the field of assessment barrier-free buildings and define categories of constructions for which the expert’s assessment will be an obligatory part of the project documentation?
- What measures will the State take to deal with the availability and sustainability of rental flats accessible for people with disabilities?
- When and how will the State set the deadline until when it is possible to operate vehicles not meeting the accessibility requirements and until when it will not be possible to operate new vehicles not meeting the accessibility criteria?
- What measures will the State take to ensure that information systems for obligatory communication of citizens with the public administration are set only after their accessibility for people with disabilities is ensured?
- How does the Slovak Republic monitor the compliance of the accessibility of public services provided by public and private operators?
- How does the Slovak Republic ensure that new buildings, reconstructed buildings of public infrastructure (including the objects of social services

providers, health care, education and other public services) meet the requirements of the legislation and universal design?

- What kind of incentives will municipalities receive in case they build barrier-free rental flats for people with disabilities?

Article 12 – Deprivation and restriction of legal capacity

CO 38 – 39

Legal capacity of persons with intellectual and psycho-social disabilities is regulated by the Civil Code, and the Civil Procedure Code. Section 10 of the Civil Code enables the court to deprive or restrict an individual's legal capacity on the basis of his or her intellectual disability. Slovak law still operates solely within the framework of substitute decision-making, and there are no provisions based on the idea of supportive decision-making.

A person deprived of legal capacity cannot validly exercise any legal act and is automatically stripped of various fundamental rights and freedoms, such as the right to enter into marriage. Alternatively, if a person's legal capacity has been restricted, the court delineates those legal actions that he or she cannot validly perform. In both cases, legal actions of a person deprived or restricted of legal capacity are performed by his or her guardian who is understood as a legal representative and substitute decision-maker.

In June 2015, the Parliament adopted a new law on non-contentious civil proceedings that entered into force in July 2016. The law introduced, inter alia, new procedural rules regulating legal capacity proceedings. Notably, the court is no longer able to deprive individuals of legal capacity and is limited instead to the restriction of legal capacity. Though this is a positive development, it is regrettable that these changes in procedural law were not accompanied by corresponding changes in the Civil Code. Even though the new Civil Code has been in the drafting stages for years, the regime of deprivation of legal capacity remains intact, and no alternatives to current modes of substitute decision making have been enacted.

Proposed questions

- When and how will the Government abolish plenary and partial guardianship and replace these with supported-decision making?
- When do you intend to finalize a new Civil Code including a conception of legal capacity and the possibilities of its restrictions, as well as the institutes of guardianship?

Article 13 – Access to Justice

CO 40 – 42

In comparison with the 2015 Alternative report the state of the art has not changed at all. The following problems are most significant:

Access to justice overlaps and intersects with a number of other areas and issues. First, according to procedural rules, especially Article 19 of the Act No. 99/1963 Coll., the Civil Procedure Code and Article 15 of the Act No. 71/1967 Coll. the Administrative Procedure Act, deprivation of legal capacity automatically leads to a loss of procedural capacity and thus also a loss of independent standing before courts and administrative authorities. The same logic applies to the restriction of legal capacity. This situation is not in conformity with Article 13 in conjunction with Article 12 of the CRPD.

Secondly, we are particularly concerned about specific practice of the state's Social Insurance Company, which is the administrative body that considers requests for disability pensions. When dealing with persons with intellectual disabilities, this authority requires that a decision on incapacitation be submitted in order to initiate the application process. Another problem is accessibility of legal aid for persons with disabilities. Even though free legal aid is available through Legal Aid Centres, access depends on a person's income. The income limit is, however, very low (316.94 EUR) and number of persons with disabilities even with low income do not meet this criteria. Moreover, legal aid centres fall short in terms of physical accessibility and lack of personnel. Finally, there is a lack of education and training for judicial and other personnel in the justice system on the rights enshrined in the Convention.

Proposed questions:

- What steps will the State take to amend procedural rules to ensure that deprivation and restriction of legal capacity do not constitute an impediment to access to justice?
- What Steps will the State take to ensure that state authorities do not make the initiation of any proceedings conditional on the deprivation or restriction of legal capacity?
- What Steps will the State take to ensure accessibility of free legal aid to all persons with disabilities?
- What Steps will the State take to ensure continuing education and training of judicial and other personnel in the justice system as well as employees of administrative authorities on the rights enshrined in the Convention?

Article 14 – Right to Liberty

CO 43 – 44

In Slovakia, disability is recognized as a precondition for deprivation of liberty in various settings, criminal, psychiatric and social. The Criminal Code allows for institutional treatment based on the actual intellectual disability of the offender, accompanied with the notion of dangerousness. Further, the Health Care Act provides for a possibility to deprive a person with intellectual disability of his or her liberty in a psychiatric setting if he or she possesses actual or perceived danger to herself or himself or to the others. These provisions are not in compliance with Article 14 CRPD, but, at least, they are accompanied with procedural guarantees. However, strikingly, there are numerous persons with disabilities who are placed in social care institutions on the basis of a contract concluded between the guardian and the institution, regardless of their will and their situation is not recognized under the law as a deprivation of liberty. Thus, they cannot benefit from any procedural guarantees.

Proposed questions

- What steps will the Government take and by when to abolish any form of deprivation of liberty based on perceived or actual disability. Especially, inform the Committee about guarantees against deprivation of liberty in social care institutions.

Articles 15 and 16 – Ill-treatment of persons with disabilities

CO 45 – 48

Lack of proper criminalization of ill-treatment in domestic law.

Slovakia has failed to properly implement obligation to criminalise torture, as required especially by Article 4 CAT. The State Party still doesn't include in its domestic criminal law adequate provisions that criminalise torture and cruel, inhuman and degrading treatment and punishment (hereinafter "CIDT") which would ensure the effective investigation, prosecution and punishment, where appropriate, of perpetrators of torture and CIDT.

The wording in the existing definition of the crime provided for under Article 420 of the Criminal Code mixes up torture and CIDT and fails to provide for elements of torture, as required under CAT. Especially, the law does not define specific purposes, including discrimination. In addition, it fails to distinguish acts of torture from CIDT on grounds of mens rea. Thus, intent is required even for cases of degrading treatment, which substantively limits the provision's applicability in the practice. This situation has resulted in de facto impunity for acts of torture, cruel, inhuman and degrading treatment.

Proposed questions

- What steps will the State take to ensure legal prohibition of torture and criminalization of acts of torture and other forms of ill-treatment, including number of charges and indictments brought against alleged perpetrators under Article 420 of the Criminal Code.
- Please explain how the definition of torture and other forms of ill-treatment is interpreted in the relevant legislation and judicial practice? Can an act committed for any purpose, including discrimination of any kind be seen as ill-treatment? What steps will the state take to ensure that the law distinguishes between torture and CDIT in terms of mens rea?

The use of netted cage-beds and other forms of restraints against persons with disabilities

In Slovakia, the use of mechanical restraints in psychiatry is governed by a methodological ordinance of the Ministry of Health no. 13787/2009 – OZS, adopted on 27/5/2009. Net-beds⁵ are listed under Article III as one of the allowed restraints and their use is widespread across psychiatric hospitals⁶.

Proposed questions

- What measures have the Government been planning to abolish the use of net-beds and other forms of restraint in psychiatric and related institutions?

Article 19 – Living Independently and Being Included into Community

CO 55 – 58

People with disabilities continue to be interested in the independent living and the consider life in institutions to be a last resort solution. According to the statistical data of the Central Office of Labour, Social Affairs and Family, in June 2019 10 765 people were beneficiaries of the financial contributions for the personal assistance. 56 877 persons benefited from the home care services in the same period.⁷ These numbers have been growing slowly in the recent years).⁸

Reduction or withdrawal of the contribution for the personal assistance in case the person's income exceeds the given threshold was eliminated by the abolition of the income testing in July 2019. However, if a person with disability happens to have a disability after he or she turns 65, there is no

⁵ Information about the net-bed, its construction and how it looks like can be available here:

http://www.zdravzar.sk/index.php?option=com_k2&view=item&id=6:postel-pre-mentalne-postihnutych&Itemid=200&lang=en

⁶ According to data collected by Forum for Human Rights, in 2018, there were at least 156 netted cage beds in use across Slovakia.

⁷ https://www.upsvr.gov.sk/statistiky/socialne-veci-statistiky/2019/2018-socialne-davky.html?page_id=855095

⁸ https://www.upsvr.gov.sk/statistiky/socialne-veci-statistiky/2018/2018-socialne-davky.html?page_id=771091 zvýšila sa aj suma, ktorá je v priemere vyplácaná – pri osobnej asistencii z 360 € (01/2018)na 535 € (06/2019), a pri príspevku na opatrovanie v tom istom období z 171 € na 300 €.

entitlement to receive financial contribution. People with disabilities consider this situation discrimination based on age.

In 2018 and 2019 the amount of the financial contribution for personal assistance was raised, but discriminatory approach to home carers who are pensioners at the same time still persists (22 303 people). They only receive the benefit of 50 % in comparison to home carers who are not entitled to pension.

In 2017 (December, 31), there were 1262 social services facilities. Social services with long-term care were provided to 46 617 users in different types of social services – mostly institutional care. In total, 42 857 users (83.3%) lived in institutions providing unlimited care, 645 persons (1.3%) were provided institutional care on weekly basis, 7 974 (15.5%) users accessed daily care. 62,6% of all users in social care facilities were elderly people. 8,624 (15,6 %) were under guardianship.⁹

Social care services for persons with disabilities are predominantly provided in institutional settings and community services are rare. In December 2017, there were 387 institutions for elderly people; 291 social care homes housing 13 273 adults with disabilities; and 153 specialized institutions with 6 860 adult residents¹⁰. With regard to children, there were over 500 children in specialized groups as part of the foster care group homes¹¹. As a result, many persons with disabilities face lifelong segregation.

Slovakia committed itself to deinstitutionalisation (hereinafter “DI”) and transformation of residential services for persons with disabilities in its *Strategy on Deinstitutionalisation*¹² and *National Action Plan on Transformation of Residential Social Services*.¹³ This was followed in December 2014 with

⁹ Report on the Social Situation of the Population of the Slovak Republic for 2018.

https://www.employment.gov.sk/files/slovensky/ministerstvo/analyticke-centrum/2019/material_sprava_o_soc_situacii_obyvatelstva_sr_2018_vlada.pdf

¹⁰ Report on the Social Situation of the Population of the Slovak Republic for 2018.

https://www.employment.gov.sk/files/slovensky/ministerstvo/analyticke-centrum/2019/material_sprava_o_soc_situacii_obyvatelstva_sr_2018_vlada.pdf

¹¹ https://www.upsvr.gov.sk/buxus/docs/statistic/vykazy/2018/Vykaz_V05_SR_2018.xlsx

¹² Available in Slovak online at: <https://www.employment.gov.sk/sk/rodina-socialna-pomoc/socialne-sluzby/deinstitucionalizacia-socialnych-sluzieb.html>

¹³ Available in English online at: <https://www.employment.gov.sk/sk/rodina-socialna-pomoc/socialne-sluzby/deinstitucionalizacia-socialnych-sluzieb.html>.

further proclamations in *National priorities of development of social services in 2015 - 2020*. Enormous delays and lack of effective implementation of DI have recently been criticized by the CRPD Committee in 2016.¹⁴

Proposed questions:

- What steps will the State take to amend the Act No. 447/2008 Coll. on Financial contributions to Compensate Severe Disability and change the rules governing financial contributions to personal assistance with the aim to ensure their availability for all persons with disabilities, including elderly people on equal basis?
- What measures will the State take to ensure availability of home care services under the Social Services Act no. 448/2008 Coll. in all local municipalities?
- How many new social and healthcare community based services have been established in recent years? Please specify types of services, capacity, and number of users in last 3 years.
- What measures does the Government plan to take to achieve deinstitutionalization of persons with disabilities. Please inform the Committee about the planned timelines of the deinstitutionalization process, the number of people to be transferred to community settings in the next 3 years and the timeframe for all relevant institutions be transformed into community-based services.
- Please provide information on the availability and accessibility of community-based services for persons with disabilities, including housing, social services and community mental health care, explaining whether the number of such services is sufficient and what measures will be taken to ensure they will continue/start being adequate and sufficient.
- Please provide information on financial allocations for the provision of social services to persons with disabilities. Please explain how resources will be reallocated from financing institutions to the development of community-based services.

¹⁴ Committee on the Rights of Persons with Disabilities, [Concluding Observations to the Initial Report of Slovakia](#), 17 May 2016, para. 56, CRPD/C/SVK/CO/1.

Article 20 – Personal Mobility

CO 59 – 60

Act No. 447/2008 Coll. on Financial Contributions to Compensate Severe Disability includes measures to promote personal mobility, such as the allowance to purchase a passenger motor vehicle. The age limit of 65 years is one of the requirements for being entitled to the contribution. People with disabilities consider this restriction discrimination based on age.

All the paragraphs related to Article 20 that are a part of the 2015 Alternative report are still topical, specifically:

- there has not been any improvement in paragraph 28 and no remedial measures have been adopted to solve the situation of people dependent on individual transport, but excluded from this service by too restrictive conditions;
- in paragraph 29, the problems described concerning financial availability of the quality aids have increased and the conditions of eligibility for high quality and satisfactory mobility aids have become even more difficult than in 2015;
- The conditions described in the in paragraph 30 of the 2015 report concerning the lack of provision of transport services to small villages persist and there has not been any measurable improvement.

Proposed questions:

- What measures will the State take to increase the affordability of aids and services and simplifying the conditions for granting contributions and discounts, e. g. by means of amending the Act No. 447/2008 Coll. and the Act No. 448/2008 and regulations on health and social insurance?
- What kind of measures will the State adopt to simplify the access of people with disabilities to quality and affordable mobility aids?
- What steps will the State take to extend the provision of transport services to small villages?
- What kind of measures will the State take to maintain special fare in domestic rail transport for persons with disabilities and adopt a uniform

discount policy for all means of public transport and maintain a free travel for those assisting people with disabilities?

Article 21 – Freedom of Expression and Opinion and Access to Information

CO 61 – 64

In spite of the pending legislation and concluding observation No. 62 there continues to be a lack of sign language interpreters and the opportunities for their training are not sufficient. At the same time, the service of simultaneous transcription of speech to text and on-line interpreting service have not been available.

Proposed questions:

- What kind of measures will the State adopt to guarantee sufficient number of sign language interpreters and their training and when do you expect offering appropriate interpreting service?
- What kind of measures will the State take to introduce the service simultaneous transcription of speech to text and on-line interpreting service?

Article 23 – Respect for Home and Family

CO 65 – 66

The situation described in the paragraph 36 of the 2015 Alternative report persists.

Under Section 12 of the Family Act No. 36/2005 Coll. persons deprived of legal capacity automatically lose their right to enter into marriage. Persons with restricted legal capacity can enter into marriage only with the consent of the guardianship court. Furthermore, a marriage is forbidden to those persons with intellectual disability whose disability can potentially lead to restriction of their legal capacity. This particular provision of the Family Act violates Article 23 of the CRPD in conjunction with Article 12 of the CRPD and should be repealed.

Proposed questions:

- What steps will the State take to repeal Section 12 of the Family Act No. 36/2005 Coll.?

Article 24 – Education

CO 67 – 68

We have to point out that the situation remains the same as described in the 2015 Alternative report; Slovakia is the country with the highest share of children being educated in special schools in the EU. The share of pupils with special educational needs is the fourth highest in Europe and they comprise almost a fifth of the children educated at elementary schools. In comparison to other European countries, however, a large group of these children are not educated in classes at mainstream schools with the most children.

While in Slovakia the share of children enrolled in special schools or classes is 5.88 % (34 299 pupils in 2018/2019), the European average is almost four times lower¹⁵.

This situation was underlined in paragraph 68 of the 2016 Concluding Observations where it was recommended to adopt a legally binding plan for the transition from segregated schools into inclusive education. The importance of the issue is emphasized in the Observations by the Committee on Social, Economic and Cultural Rights or the Committee on the Rights of the Child.¹⁶

Unfortunately, the Slovak Republic has not adopted yet a strategy to reform the educational system, and to organise the transition from segregated schools into inclusive education. Neither teachers, nor students in the process of their vocational training are prepared systematically for the transformation.

¹⁵ <https://www.european-agency.org/resources/publications/european-agency-statistics-inclusive-education-2016-dataset-cross-country>

¹⁶ Committee on Economic, Social and Cultural Rights, [Concluding Observations - Slovakia](#), 8 June 2012, para. 26, E/C.12/SVK/CO/2, Committee on Economic, Social and Cultural Rights, *Third period report of the State party*, August 2017, paras. 133-150, Committee on the Rights of the Child, [Concluding observations on the combined third to fifth periodic reports of Slovakia](#), 20 July 2016, para. 37, CRC/C/SVK/CO/3-5.

The situation concerning unavailability and unenforceability of education for children with disabilities at the mainstream school have not changed since 2015. We would like to stress some of the most striking issues in this report. Significant lack of available pre-school education for children with disabilities is current emerging issue. The kindergarten, even a special kindergarten is entitled to reject the child in case it cannot provide for material and technical requirements. The requirements mentioned are not provided for – the schools have many barriers, they do not have school aids needed, there are not enough teachers' assistants and other experts¹⁷.

The new legislation introduced obligatory preschool education for children from 5 years of age contains the exception concerning children with disabilities as well. That means the right to education in the kindergarten is unenforceable as well (no possibility to appeal after rejecting the child).

The situation continues to repeat where the centre for special pedagogical counselling (CSPC) decides that the child needs an individual form of education and a shorter frame. In most cases it is 2 hours a week and, thus, children with multiple disabilities do not have an adequate scope of education even in special schools where it is not possible for school to create appropriate conditions for education. The involuntary home schooling is the consequence of this situation¹⁸.

Slovakia fails to allocate sufficient financial resource to support teaching assistants and teams of experts in schools – school psychologists and special pedagogues and pedagogical assistants. The child is not provided for with the support as recommended by the counselling centres. In the school year of 2018/2019 5 845 teaching assistants were required and only 2 374 were allocated, which is only 40 % (kindergartens are excluded from this scheme where assistants are exclusively financed by the founder).

The mechanism of assigning pedagogical assistants is not flexible enough; it does not take changes during the school year into consideration.

¹⁷ <https://dennikn.sk/blog/1439595/cakaju-nas-zapisy-do-skolok-vacsina-deti-so-zdravotnym-znevyhodnenim-sa-opat-nedocka/>

¹⁸ <https://dennikn.sk/blog/1287696/nemas-asistenta-do-skoly-nepojdes/>

The absence of the supporting services worsens the inclusion as well. The pedagogical assistant provides the services of medical and personal assistance as well. According to the School Act nurses are not allowed to be present in a school facility.

The situation is even more critical at secondary schools. The schools where the child with special educational needs is interested to enrol have many barriers. The staff is not trained to meet the individual requirements of integrated students.

Within the pending educational system children with intellectual disabilities cannot continue their studies at secondary schools because they only have ISCED 1 level of education. Thus, they are disqualified from being enrolled for the secondary school and from future professional opportunities.

Proposed questions

- Could you inform the Committee about availability and accessibility of pre-school education for children with disabilities? How many applications from children with special educational need have been rejected in the last three years?
- What kind of measures will the State take to finance the expert teams and support services in kindergartens and at schools in the SR and when will the State enable children with disabilities to enjoy their right to education? What kinds of resources are used for this purpose and what is their amount? Are they sufficient to cover all need requested? What are the pending rules/criteria for allocation of non-prescriptive resources to finance pedagogical assistants?
- How many experts, pedagogical assistants within the school system are employed in the favour of children with special educational needs and to what extent does this number correlate with the need of these children?
- Please provide information on steps taken on the transformation and desegregation of special education system towards inclusion of all children with disabilities into mainstream education, including concrete tasks, responsible subjects and timeline.

- Could you present the analysis on the length of professional training experience within the specific educational programs at universities and introduce the measures taken and the time frame of their implementation to put content of the educational program into line with the real needs and enable students of pedagogical specializations to take the professional training with children with special educational needs?
- Could you present the analysis of how many secondary school students is integrated into mainstream secondary schools? Which specializations are the most accessible for students with special educational needs? How many graduates with special educational needs have succeeded in entering into the labour market or enrolling in universities?

Article 25 – Health

CO 69 – 70

As described in 2015 Alternative Report, there is a permanent shortage of adequately accommodating healthcare facilities for the hospitalisation of persons with severe physical disability as well as persistent problems with outpatient treatment and medical examinations. Routine examinations continue to be unavailable or the conditions are indecent. This is the reason the people with disabilities are often enforced to neglect the routine examinations and prevention.

Proposed questions:

- Do you intend to adopt measures enabling the smooth hospitalization of patients with even most serious physical disabilities, also in departments not specialized in the underling diagnosis, and set a specific timeframe for equipping healthcare facilities with necessary tools, adopt measures enabling the smooth hospitalization of patients with even most serious physical disabilities, also in departments not specialized in the underling diagnosis, and set a specific timeframe for equipping healthcare facilities with necessary tools?
- Do you plan to adopt measure to guarantee available and accessible healthcare for people with disabilities?

Article 27 – Work and Employment

CO 73 – 74

The situation described in the point 52 of the 2015 Alternative report has been persisting. The fact that with the exception of the allowance on a job assistant, the provision of the remaining contributions and allowances is subject to the establishment of a sheltered workshop or a sheltered workplace is the basic shortcoming of this piece of legislation.

The Act No. 5/2004 on Employment Services conditions the support for individual employment of a person with disabilities in the open labour market by establishing a sheltered workplace. Such employment is then not declared as the employment in the open labour market in spite of the fact it meets all the principles of the employment in the open labour market. Consequently, the statistical data on the employees with disabilities in the open labour market are quite low.

We consider the recommendation No. 74 to step up efforts on the transition from sheltered workshops to an open labour market for all to be only implemented partially. The action Plan on the Transition from Sheltered Workshops to an Open Labour Market was worked out in 2017, its conclusions, however were not transposed into legislation and it hasn't been put into practice. In 2018 the act No. 112/2018 on Social Economy and Social Enterprises was approved. The assistance during the transition of people with disabilities from integration social enterprises into open labour market is one of the roles of social enterprises. Financial mechanisms have been created to motivate the founders of integration social enterprises to support this process.

Proposed questions:

What is the intention of the Slovak Republic in the field of supporting of the employment of people with disabilities in the open labour market?

Article 28 – Adequate standard of living and social protection

CO 75 – 76

The situation persists where in many cases the amount of granted disability pension of disability pensioners with the rate of the decline of the ability to pursue economic activity exceeding 70% does not reach the level of the at-risk-of-poverty threshold. Thus, these people do not have an appropriate standard of living. Lately, the state has not adopted any measures to ensure the amounts of the disability pensions exceed the at-risk-of-poverty threshold. We consider the fact that in the period of 2018 – 2021 the minimum annual indexation of disability pensions is granted at the level of 2 % of the amount of the average disability pension the person is entitled to.

Proposed questions:

What kind of measures does the Slovak Republic aim to adopt in future to guarantee the amount of disability pensions of the people with disability with the rate of the decline of the ability to pursue economic activity exceeding 70% reach at least the amount of the officially stated at-risk-of-poverty threshold?

Article 29 – Participation in Political and Public Life

CO 77 – 78

The exercise of the right to vote and to stand for elections is governed by the Act no. 180/2014 Coll. on the Conditions of the Right to Vote. Pursuant to this act the deprivation of legal capacity has no longer been an impediment to the exercise of the right to vote. The deprivation of legal capacity, however has still been the impediment to the right to stand for elections in accordance with Section 6 letter c) of this Act.

Electronic voting enabling secret casting a ballot for blind and partially sighted people has not been enabled yet.

Proposed questions:

- What kind of measures do you plan to adopt to extend the right to vote for people deprived of legal capacity and people with restricted legal capacity?

- Do you plan to introduce electronic voting? If yes, when?

Article 33 – National Implementation and Monitoring

CO 87 – 88

In accordance with the concluding observation No 88 the focal point has been enforced from the point of view of its staff. At present it has 6 employees and has become the independent Department for the implementation of the UNCRPD at the Ministry of Labour, Social Affairs and family of the SR: Since 2016 the Commissioner for Persons with Disabilities operates and has created the basis for the independent monitoring mechanism in line with the Article 33 (2) of the Convention.

There is, however, one unsolved persistent issue of concern, which is the absence of conditions for the participation and inclusion of persons with disabilities and their representative organisations into the monitoring process, as required by Article 33(3) of the CRDP. The main reason for this is the lack of systemic financial support of the representative organisations of persons with disabilities in their monitoring role and maintaining their minimum expert capacity. Therefore, disability organisations are capable of performing these activities only occasionally and in a significantly reduced extent dependent of course on the project funding and sponsorship available.

Proposed questions:

What measures do you plan to adopt to develop conditions for involvement of representative organisations of persons with disabilities in the monitoring of the CRPD and for the development of expert capacity for this activity?