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# Alternative report on the implementation of the United Nations Convention on the Rights of Persons with Disabilities in Bosnia and Herzegovina







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# **Alternative report on the implementation of the United Nations Convention on the Rights of Persons with Disabilities in Bosnia and Herzegovina**

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# Foreword

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Bosnia and Herzegovina ratified the *Convention on the Rights of Persons with Disabilities*, along with the *Optional Protocol*, in March 2010. The country sent its *Initial Report on Implementation of the Convention* to the *UN Committee on the Rights of Persons with Disabilities* in spring 2013.

As recommended by both the Convention itself and the watchword shared by all persons with disabilities, “Nothing about us without us,” this Shadow or Alternative Report on implementation of the Convention presents the findings of comprehensive monitoring regarding respect for the rights of persons with disabilities. Most of the individuals who participated in or contributed to the monitoring project were themselves persons with various forms of disability, belonging to one of 65 disabled persons organisations organised into five coalitions in five regions within Bosnia and Herzegovina. Work on the project was coordinated by the local representative office of the MyRight organisation.

This is an independent Shadow Report, compiled without the assistance or support of state or government authorities, although support has been received from non-governmental organisations active in the area of human rights in Bosnia and Herzegovina. It has been produced using the Disability Rights Promotion International (DRPI) methodology and provides an integrated overview of the situation with regard to respect for human rights in Bosnia and Herzegovina, as experienced by persons with disabilities themselves.

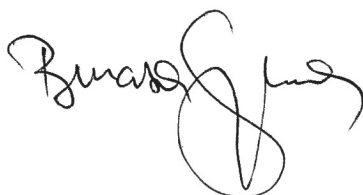
This report, in itself, represents only a small part of the wealth of resources, capabilities, energy and dedication that individuals with disabilities in Bosnia and Herzegovina are willing and ready to invest in improving their own position in society through monitoring respect for the rights guaranteed them under the Convention.

We would like to thank our donors, including the Austrian Development Cooperation and Light for the World, also from Austria, who recognised the need for this form of activity and secured funding for implementation. We would also like to thank the Swedish International Development Agency (SIDA) for supporting MyRight’s work in Bosnia and Herzegovina.

We also thank all those who participated and worked directly, whether as individuals or organisations, on the monitoring project or who contributed to the appearance of this report. Their names are given at the end of the report.

### **Country Coordinator for Bosnia and Herzegovina**

Binasa Goralija

A handwritten signature in black ink, appearing to read 'Binasa Goralija', with a large, stylized flourish at the end.

# 1. Report summary

This report has been compiled under the aegis of the “Towards implementation of the UN Convention — Empowerment of Persons with Disabilities in Bosnia and Herzegovina: 2012–2014” project. The purpose of the report is to present the real situation facing persons with disabilities in Bosnia and Herzegovina, following the Disability Rights Promotion International (DRPI) methodology.

The report was put together between November 2013 and December 2014, on the basis of three constituent monitoring reports looking at the rights of persons with disabilities:

- A monitoring report of the system (the legal and political framework, as it affects persons with disabilities),
- A monitoring report on the personal experiences of individuals with disabilities, and
- A monitoring report on the media (how they cover persons with disabilities).

Persons with disabilities, including all forms of disability, participated in drafting the report, as did the parents of children with disabilities and experts in the area of disability from all parts of Bosnia and Herzegovina. The process involved a high level of participation and involvement, consultation and cooperation.

The key issues facing individuals with disability in Bosnia and Herzegovina today were found to be:

- barriers to social participation and inclusion,
- discrimination on the basis of cause of disability,
- poor access to services, particularly in education and healthcare,
- poverty, and
- discrimination by public employees providing services to them.

A description of the current status of legislation is given for each issue, along with examples from everyday life and of the experiences of individuals with disabilities, illustrating the high degree of discrimination and inequality affecting them in these key areas.

In addition to the monitoring reports, an analysis was carried out of the Initial Report of Bosnia and Herzegovina on Implementation of the UN Convention on the Rights of Persons with Disabilities, on the basis of which questions are being prepared for an upcoming session of the UN Committee for the Rights of Persons with Disabilities in Geneva to be used in questioning the BiH state delegation in its deposition to the Committee.



## **2. General recommendations of The Alternative report of BiH for improving the status of persons with disabilities**

Implementing these recommendations would allow the state to meet the obligations undertaken by signing and ratifying the Convention.

### ***Recommendations to improve the social inclusion and participation of PwDs:***

- All levels of government must take active measures to raise awareness in society as a whole regarding the rights and capabilities of persons with disabilities with a view to combatting stereotypes, prejudices, and harmful behaviour directed at PwDs, including those based on age, gender, LGBT orientation, etc.;
- Create mechanisms at all levels of government to ensure consistent application of accessibility standards for premises and services, making clear responsibilities and sanctions;
- Provide local and central government funding to ensure accessibility, including the adaptation of public premises and facilities, continuous monitoring of the enforcement of accessibility standards, provision of sign language interpretation services and signage and other materials in Braille, etc, as one of the areas of focus of local disability action plans;
- Legislate and regulate at all levels of government to establish a system providing PwDs with the services of personal assistants in daily life with a view to securing equality of opportunity.
- Develop a range of programmes and measures strengthening the capacity of families of children with disabilities, in terms of the knowledge and skills required for them and their children to function better in society and so avoid institutional care;
- Provide a legal framework and funding for DPO participation in consultative and decision-making processes relevant to PwDs at all levels of government;
- Work on developing PwD and DPO awareness and capacities, targetting full use of existing anti-discrimination mechanisms in pursuit of declared rights and freedoms at all levels of government;
- Make public transport providers legally responsible for ensuring public transport is actually accessible to PwDs;
- Enshrine the right of PwDs to information in appropriate and accessible formats and modalities ( sign language services, Braille, large print, audio or electronic recordings,

easy-read text, non-verbal forms, standardised accessibility to public institutions' Internet pages and the use of facsimiles by blind or vision-impaired individuals) in law and regulatory codes at state, entity and cantonal levels and ensure funding for implementation;

- Ensure equal participation by PwDs in the electoral process, in line with UN standards, including accessibility, confidentiality of the ballot and the provision of election materials and voting papers in all the accessible formats.

### ***Recommendations on eliminating discrimination against PwDs:***

- Ensure that entity-level laws make no distinction between the rights to support for equalisation of opportunity accorded persons with disabilities on the basis of how or when their disabilities came about;
- Define and ban discrimination on the basis of disability in the constitutions and in any laws which touch on the enjoyment of human rights and fundamental freedoms, including especially the Anti-Discrimination Law of BiH;
- Bring the definition of disability in BiH legislation into line with the definition in the Convention: in doing so, explicitly recognise the importance and impact of environmental factors and build them into the definition itself;
- Provide an institutional mechanism for affirming the status of persons with disability and adopt a single set of criteria for assessing that status, regardless of the cause of the disability.

### ***Recommendations on ensuring the basic education and healthcare rights of PwDs:***

- Harmonise the principles of good quality inclusive education at all levels of education with the Convention and secure the financial and other resources required for implementation: Include the relevant ministries of education, pedagogical institutes, public information services and media and non-governmental organisations, particularly disabled persons organisations;
- Eliminate all discriminatory phrasing from legislation and other provisions in the field of education, bringing the provisions into line with the definitions from the Convention;
- Legislate and otherwise regulate at all levels of government for the establishment of a system of assistive services in education, to support the inclusion of children and other

persons with disabilities in the general educational system and ensure funding for the same;

- Require the education ministries and relevant local level institutions to budget separately for inclusive education, which entails: ensuring architectural accessibility, purchasing the required orthopaedic, typhological and other aids, teaching materials, textbooks and other literature, in accessible formats and modalities, as well as securing other forms of support (teaching assistants, sign language interpreters, and personal assistance, etc);
- Carry out an urgent assessment of the accessibility of all educational and healthcare facilities, including all levels of education, ensuring the application of sanctions and other measures to ensure accessibility;
- Include a mandatory element on training for inclusive education in all training programmes for teaching staff;
- Ensure observation of children with disabilities takes place within their educational environment, without the need to displace them for the purposes of observation;
- Review the standards for assessing disability in children and admitting them to day centres and other forms of institutional care, to ensure that children who can attend inclusive classes are not excluded from the regular educational process;
- Introduce certification of teaching and other staff authorised to assess the degree of a child's disability, capacities and potential;
- Enshrine in legal and other regulatory provisions at all levels of government the right to healthcare of all individuals with disabilities;
- Stipulate clearly in the entity laws on health insurance the criteria for issuing aids or assistive devices to individuals with disabilities, with a view to ensuring personal mobility and ability to participate in social life. These criteria should ensure an individualised approach, so that the aids are issued in accordance with the real needs of the disabled individual, rather than based on the diagnosis alone;
- Stipulate clearly in both entities' health insurance laws the right of all individuals with disabilities to orthopaedic, typhological and other aids, the quality standards for such aids, criteria for issuing them, and the budgetary modalities for funding;
- Develop programmes and measures to stimulate work on preventing disability;
- Stipulate clearly in entity-level law and other provisions the standards for architectural accessibility and outfitting, requiring their application to any new construction in healthcare and setting a time frame for the adaptation of existing buildings and purchase of equipment.

## ***Recommendations on combating the poverty of PwDs and their families:***

- Set a legal minimum income for persons with disabilities in both entities, taking into account the additional costs they and their families incur because of the disability;
- Legislate clearly that social protection and welfare entitlements, their scope and scale and the manner in which they are claimed must be administered according to the same criteria for all persons with disabilities, regardless of where they live or how and when their disability came about;
- Distinguish clearly in the entity-level laws in both entities between spending on social security and spending on support services for persons with disabilities to ensure equality of opportunity;
- Legislate for the establishment of a system of support services for the personal mobility, everyday functioning, and social inclusion of persons with disabilities, identifying clear sources of funding;
- Stipulate clearly in the entity labour laws of both the FBiH and RS that health status cannot be considered in employing persons with disabilities, so long as they are professionally qualified for the job in question;
- Clearly stipulate in the laws on professional rehabilitation, training and employment the criteria and mechanisms, including additional incentives, for employing individuals with severe disabilities;
- Develop an institutional system of rehabilitation and professional rehabilitation in both entities based on the same principles, to be financed out of the budgets of state-level institutions and funds;
- Introduce reform of the disability pension insurance system, so as to incorporate the rights of persons with disabilities on the basis of their disability;
- Stipulate in entity-level law the requirement that local authorities develop social housing and community housing programmes for individuals with disabilities and plan accordingly in their budgets;
- Work on raising awareness of the importance of employment for persons with disabilities as equal members of society.

## 2.1 Special recommendations regarding government employees

***The following recommendations are made with a view to eliminating the day-to-day discrimination persons with disabilities experience at the hands of government employees providing public services:***

- Explicitly define and forbid discrimination on the basis of disability in the Anti-Discrimination Law and any other laws that treat discrimination;
- Take active measures to raise the awareness and develop the other capacities of individuals with disabilities and of their organisations, with a view to promoting antidiscrimination mechanisms as tools for securing the exercise of their declared rights and freedoms;
- Include a mandatory element on the rights of persons with disabilities and preventing discrimination against them and their families (bearing in mind all relevant differences in terms of age, gender, sexual orientation, etc.) in all training programmes at public institutions, on the basis of joint work with disabled persons organisations;
- Incorporate activities designed to raise social awareness of persons with disabilities, including their own self-awareness, into all strategies and action plans developed by state-level institutions and allocate funding for such activities.

## 3. Introduction

### 3.1 The context in Bosnia and Herzegovina<sup>1</sup>

Bosnia and Herzegovina is defined by Annex IV of the Dayton Peace Agreement<sup>2</sup>, which contains the country's Constitution, in territorial terms as a complex state, made up of two entities, the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS), as well as of Brčko District.<sup>3</sup> The entities in Bosnia and Herzegovina are organised asymmetrically – the RS is centralised, with two levels of government, an entity and a municipal or local level, while the FBiH is decentralised, with three levels of government, the entity and the cantonal (10 Cantons) and municipal levels.

Under the Constitution, Bosnia and Herzegovina is defined as a parliamentary democracy. The key institutions of the state-level are the bicameral Parliamentary Assembly of Bosnia and Herzegovina, made up of a House of Peoples and a House of Representatives, and the collective head of state, the three-member Presidency of Bosnia and Herzegovina, the Council of Ministers, and the Constitutional Court of Bosnia and Herzegovina.

Legislative authority is organised differently in the entities: in the RS there is a unicameral National Assembly and a Council of Peoples, which ensures the protection of national interests, while in the FBiH the Parliament is bicameral. In the FBiH, however, each of the 10 cantons has its own constitution, a single chamber assembly, and powers and authorities that are reserved to that level or shared with the entity level.

Article 3 of the Constitution stipulates that only a certain number of issues related to international relations, economic policy and obligations taken over internationally and their countrywide application or implementation lie fully within the jurisdiction of the state of Bosnia and Herzegovina. From this, it follows that all key areas relating to persons with disabilities, including labour and employment, social protection, education, transport and communications, healthcare, and so forth lie within the exclusive jurisdiction of the entities, while in the FBiH they are subject to further division between the entity and the cantons.

The number of people in the country with disabilities is not known, as there are no reliable demographic data for Bosnia and Herzegovina as a whole.<sup>4</sup> Preliminary data from the recent

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<sup>1</sup> This chapter is largely based on direct quotation or paraphrase of sections of the *MyRight Report on System Monitoring*, pp. 2-7

<sup>2</sup> Agreed on 21/11/1995 in Dayton, USA, and officially signed in Paris, France, on 14/12/1995

<sup>3</sup> Established by international arbitration on 08/03/2000, the District has its own institutions and legal system

<sup>4</sup> The census was conducted between the 1st and 15th of October, 2013. Preliminary results will only be available as of 15/01/2014 and could not be used during the reporting period

census indicate a total population of 3,791,622.<sup>5</sup> According to WHO information, persons with disabilities make up on average 15% of the population of any given country. Accordingly, one may estimate approximately 568,743 persons with disabilities in Bosnia and Herzegovina.

Bosnian and Herzegovinian society has passed through multiple processes of transition over the past 20 years: transition in economic relations (from a socialised to a private economy, from a closed and protected to an open market); transition of the political system (from a single party to a multi-party democratic system); and the transition of a post-conflict country (even though there has been peace since December 1995, the consequences of the 1992 to 1995 war continue to be reflected in cases of post-traumatic syndrome amongst the internally displaced population and in a general level of distrust).

The key trends in social development in Bosnia and Herzegovina are tied to the decision to seek closer relations with Euro-Atlantic institutions and membership in the European Union and the associated processes. These trends entail the implementation of a series of reforms, bringing local legislation into line with international and EU standards. Issues related to disability have a significant place in the reform process in Bosnia and Herzegovina, serving to underline the political commitment to regulate for these issues in accordance with international standards in the area of disability. In spite of a large number of simultaneous reform processes and, in part at least, due to the insufficient institutional and financial resources of the state and to the underdeveloped and underfunded condition of the disabled persons' movement, not to mention the public's misguided and negative opinions and prejudices regarding persons with disabilities, their position in Bosnian and Herzegovinian society remains exceptionally poor. Gross domestic product in 2011 was 25,734 million KM, or 6709 KM per capita.<sup>6</sup>

Most specific legal provisions relating to persons with disabilities are based on the medical approach to disability and, consequently, envisage no mechanisms for their fuller inclusion or active participation in creating the environment they live in. They are designed simply to secure the elementary preconditions for meeting basic needs.

The only documents prepared with the participation or under the leadership of DPOs, in cooperation with institutions at any level of government in Bosnia and Herzegovina, have been the BiH Disability Policy<sup>7</sup> and the two related entity-level strategy documents.<sup>8</sup>

In spite of the complex structure of the state or how authorities are carved up and the various

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<sup>5</sup> Source: [http://www.bhas.ba/obavjestenja/Preliminarni\\_rezultati\\_bos.pdf](http://www.bhas.ba/obavjestenja/Preliminarni_rezultati_bos.pdf) accessed 10/11/2013

<sup>6</sup> Source: [www.bhas.ba](http://www.bhas.ba) accessed 12/06/2013

<sup>7</sup> Official Gazette of BiH, no 76/08

<sup>8</sup> Passed in the FBiH and RS in 2011 (the Strategija za izjednačavanje mogućnosti za osobe s invaliditetom u FBiH 2011-2015. adopted at the 4th Session of the FBiH Parliamentary Assembly, on 28/7/2011 and the Strategija za unapređenje društvenog položaja lica s invaliditetom u RS 2010-2015, passed at the 184th Session of the RS Government on 29/07/2010)

possible ways that exist for dealing with issues legislatively at different levels, it remains a fact that by accepting and signing the international conventions on human rights, Bosnia and Herzegovina undertook an obligation to secure the same fundamental conditions of life for all its citizens throughout the state, without discrimination on any basis. The country is obliged to meet the standards of human rights that arise from the international documents it has signed and ratified and individuals with disabilities have a right to demand protection from discrimination, as well as a right to full enjoyment and realisation of all their human rights, as set out in these international documents.

### **3.2 On the Alternative Report for Bosnia and Herzegovina**

Bosnia and Herzegovina ratified the Convention and the Optional Protocol to it without reserve or comment in March 2010, giving rise to an obligation to report on its implementation. An Initial Report was delivered to the United Nations at the end of January 2013. Most DPOs, particularly those active at the local community level or outside major urban centres, were unable to express their views regarding the state's achievements in applying the Convention within the framework of that national report.

This Alternative Report has been prepared following the Disability Rights Promotion International (DRPI) methodology<sup>9</sup> within a project entitled "Towards Implementation of the UN Convention on the Rights of Persons with Disabilities – Empowering People with Disabilities in Bosnia and Herzegovina."<sup>10</sup>

DRPI has developed a holistic approach to monitoring the rights of persons with disabilities, focusing on fact gathering in three key areas:

- the experiences of persons with disabilities at an individual level;
- systemic measures taken to protect and promote their rights (laws, policies, programmes); and
- media descriptions and coverage of disability.

The entire process involved cooperation, workshops and meetings between MyRight, the Centre for Society Orientation (COD) – the DRPI coordinator for the European region, and all the various participants in the project to draft the Alternative Report. The process of preparing this Alternative Report has been guided by principles of accessibility, human rights, participation and gender equality.<sup>11</sup>

An overview of the data collection method used, with information on sample size and experiences during fieldwork is given in Annex III.

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<sup>9</sup> See <http://drpi.research.yorku.ca/disabilityRightsMonitoring>

<sup>10</sup> "Towards the implementation of the UN-Convention – empowerment of persons with disabilities in Bosnia Herzegovina" (Project number 00866) financed by Light of the World and Austrian Development Cooperation

<sup>11</sup> A detailed description of the process and chronology of drafting the *Alternative Report* is given in Annex IV



## 4. Key issues for persons with disabilities

The key issues for persons with disabilities in Bosnia and Herzegovina were extracted using the DRPI methodology from the process of monitoring individual experiences,<sup>12</sup> with further confirmation through a participatory workshop, which brought together all those involved in monitoring the experiences of persons with disabilities.

In general, one can state that the constitutions of the state, entities and district and legislation at all levels are not to any satisfactory degree or measure in accord with the principles and provisions of the Convention.

The key issues of burning importance for individuals with disabilities in Bosnia and Herzegovina which require immediate resolution are:

- That persons with disabilities are denied social inclusion and participation;
- That persons with disabilities are discriminated against on the basis of their disabilities;
- That persons with disabilities are underserved with regard to basic services in the areas of healthcare and education;
- That persons with disabilities are in or at risk of poverty;
- That persons with disabilities are exposed to discrimination on a daily basis by the staff of institutions and authorities providing public services.

These key issues are mutually interrelated, so that particular violations of individual articles of the Convention come up time and again under various key issues. As a result, certain quotes from individual experiences and the legal frameworks are repeated in the text that follows to illustrate the level of discrimination under different key issues.

The sections dedicated to the key issues, on the basis of our monitoring of individual experiences, the system, and the media, use both argument and evidence to make clear the degree to which the Convention is being violated. Where possible, the text is based directly on excerpts from the three monitoring reports. At the beginning of each section, the articles of the Convention being violated are listed. They are repeated at each point where specific violations are discussed on the basis of examples of individual experience.

### 4.1 Persons with disabilities are denied social inclusion and participation

“I spent five years confined to the circle of my family and my house, since, being blind, I was rarely able to get out and socialise.” (Male, Bijeljina, age 41-55)

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<sup>12</sup> MyRight Izveštaj o individualnim iskustvima.

Under this key issue, the following articles of the Convention are being directly violated:

- **9. Accessibility,**
- **19. Independent living and inclusion in the community,**
- **20. Personal mobility,**

while the following are being broken indirectly:

- **5. Equality and non-discrimination,**
- **8. Awareness-raising,**
- **21. Freedom of expression and opinion and access to information,**
- **24. Education,**
- **25. Healthcare,**
- **27. Employment,**
- **28. Appropriate standard of living and social protection,**
- **29. Participation in public and political life,**
- **30. Participation in cultural life, recreation, leisure and sport,**
- **33. Implementation and monitoring of implementation of the Convention at the national level.**

Social participation is something that people without disabilities take “for granted.” Leaving the house to go to the shop, going to a game, voting at elections, taking a course, going to the dentist, or having a coffee with a friend: everyday activities that simply aren’t accessible to many or most persons with disabilities.

Today, in Bosnia and Herzegovina, it is people with disabilities who experience the lowest level of social inclusion,<sup>13</sup> a fact clearly confirmed by our investigation into individual experiences: of the 100 respondents as many as 97 cited examples of social participation, with a total of 570 such experiences, indicating that on average each respondent reported no less than five experiences associated with social participation.<sup>14</sup>

Social participation or social inclusion are of such importance to our respondents’ lives because they affect the broadest spectrum of their activities. This is particularly true for individuals with disabilities and their:

- Access to public institutions and services (including education, employment, and healthcare or social protection),

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<sup>13</sup> As early as 2003, it had been shown that 51 percent of the population of BiH was socially excluded and that the most excluded were persons with disabilities and Roma (UNDP/IBHI 2003 *Human Development Report – Social Inclusion*). In the World Bank report from 2012 on *Social Inclusion in BiH and the Global Crisis*, p. 5, the figure given is close to 60 percent

<sup>14</sup> MyRight Izvještaj o individualnim iskustvima 2013. p. 23

- Participation in cultural, public or political life,
- Participation in sporting activities and recreation, and
- Participation in leisure activities during free time.

Social participation covers many activities which should be daily experiences for the respondents and which are consequently of considerable importance in understanding the quality of their lives and their enjoyment of their guaranteed rights.

The *Initial Report of Bosnia and Herzegovina regarding the Implementation of the Convention on the Rights of Persons with Disabilities* accepts that access remains a problem for persons with disabilities,<sup>15</sup> but, beyond going through the legal framework required for disabled access, makes no attempt to indicate how this framework is being or might be applied. There are no reports on successes in applying or implementing a legislative programme, but only passing comments that in some regards “an acceptable level of access exists.”<sup>16</sup> Similarly, a number of positive examples of accessibility are mentioned as good practices, without further explication that such examples are *ad hoc* and rare. For example, while mention is made that certain premises are undergoing adaptation to meet the requirements of persons with disabilities, there is no data on how many municipalities are meeting their obligations to install low curbs for pavements or additional sound or visual-based traffic signage or to what degree.<sup>17</sup> The only monitoring information available on accessibility is prepared by DPOs themselves and not government institutions. There is no evidence regarding fines meted out to institutions that break legal and other provisions regarding spatial or town planning standards or technical conditions and norms designed to avoid environmental and architectural obstacles to persons with reduced physical capabilities. Entity and cantonal regulations do not even contain provisions on what to do with any resources (fines) collected in this way.

Like everybody else, individuals with disabilities can only participate in social life if given the basic conditions for exercising and enjoying their rights, that is, if provided access to the enjoyment of those rights. The investigation into individual experiences found the most commonly violated principles to be participation, inclusion and accessibility, particularly with regard to *social* inclusion and participation. Accessibility was the individual principle most commonly reported as absent (141 experiences).

Interviewees reported violations of article 9 of the Convention and of articles 19 and 20, which is to say failure to respect the principles of social participation, social inclusion and accessibility, both because of architectural barriers within the physical environment and because of ingrained

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<sup>15</sup> Initial Report by BiH on Implementation of the Convention on the Rights of Persons with Disabilities, 2012, paragraph 68

<sup>16</sup> Ibid, paragraph 69

<sup>17</sup> Ibid., paragraphs 67, 68 and 128

attitudes and lack of understanding of disabilities on the part of people in the community (the following quotations are from the *Report on Individual Experiences*):<sup>18</sup>

“Some of the basic things we all experience on a daily basis are the barriers or obstacles we face on a simple trip to a routine doctor’s appointment or to an institution of any sort. It might be, for example, that I find myself facing steps without even a simple handrail I can use to climb with, and so, for me, they become an unbridgeable obstacle.” (Male, Bijeljina, age 41 to 55).

“Well, you see, that the footpaths have not been adapted makes it difficult for me personally to get around town, and, when it’s raining, I need my wife’s help.” (Male, Doboj, age 26 to 40).

“People with disabilities, particularly people in wheelchairs, are simply dependent on others to help them when they go out, for example, to healthcare facilities, whose entrances are not accessible, or, just generally, in simply going out onto the street.” (Female, Tuzla, age 18 to 25).

“The community is not accessible, starting with the (un)professionalism of institutions, healthcare centres, the police, government ministries, municipalities or cantons... As for city transport or taxis, you can forget it. You see, there is no access for people with disabilities into 99% of institutions, there is no transport, no institutions. It’s barely a year since the municipality itself put in a suitable entrance for people with disabilities. There are no adapted entrances to the cantonal buildings, or the police, or the courts, or the banks, except in one bank, where we put it in ourselves. Even the health insurance and employment bureaus don’t have proper entrances. So, none of these institutions that should provide us a basic condition, a way in, not one of them does it.” (Male, Mostar, age 41 to 55).

“The external environment is a problem... I can’t get to the shops, and even the curbs on the streets haven’t been adapted, and I would like to go by foot, but there are very few places I can. That is a problem for me. Physical obstacles represent one of the biggest problems for me.” (Female, Doboj, age 41 to 55).

It is quite understandable that so many people have had negative experiences in this sphere of life, given that none of the towns in which the survey was conducted have any form of adapted transport, which is a violation of article 9 of the Convention, paragraph 1a. In some towns, like Sarajevo, for example, an insignificant number of vehicles adapted for persons with disabilities does exist, but they are of little use, as the stops have not been adapted, in spite of legal

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<sup>18</sup> MyRight Izvještaj o individualnim iskustvima, 2013: pp. 26-27

obligations to do so in both the FBiH and its cantons.<sup>19</sup> There are no specialised services for transporting persons with disabilities and even taxi services are often unwilling to transport them, claiming to lack space in the trunk for stowing the wheelchair. Main streets have, to some degree, been adapted for persons with disabilities, insofar as there are dipped curbs on the footpaths, but cars park on them and create other problems, as does the lack of sound-based or visual signage for the blind and visually-impaired or for the deaf and hearing-impaired.

Laws on construction and provisions on spatial planning exist that set out the responsibilities of investors to ensure the accessibility of new buildings and make old buildings accessible to the extent possible. One can, however, observe in Sarajevo public buildings being constructed today without proper access for persons with disabilities, so that while most have an entrance that is suitable, even for wheelchair users, further independent movement inside the buildings remains impossible (examples include the Cinema City complex in Sarajevo, the Olympic pool, owned by Sarajevo City, new residential buildings, etc.). Again, this is a violation of article 9 of the Convention, paragraph 1a.

Information in public institutions is not made accessible for persons with disabilities, violating article 9 of the Convention, paragraph 1a, as confirmed by the experiences of persons with disabilities:

“Nothing. There are aware of it, but nothing... It’s the same with bank tellers. I ask them to explain why it is so hard. It’s a problem for the deaf, a barrier to communication. Deaf people do want to come to them, but people with hearing don’t have the patience. I don’t mean all of them, but most people. I ask them to write it down, but then again it’s the same at the doctors, or in the clinic.” (Female, Sarajevo, age 41 to 55).<sup>20</sup>

This example makes very clear how little attention is given to accessibility of information for people with impaired hearing. Access to basic information in public services for all citizens is simply denied through the absence of sign language interpreters or of information provision through audio-visual means, Braille, or easy-read texts. It is an obligation of public services, under article 8 of the Convention, paragraph 2c, and again under article 21, to make their Internet pages accessible, along with other materials, to persons with disabilities in appropriately adapted formats. This includes the distribution of printed materials in healthcare institutions and in municipalities or other governmental institutions at various levels. These obligations are not being met, regardless of the attention drawn to the fact by DPOs and individual politicians. The public media, which receives significant funding from government budgets, are under no editorial obligation to ensure content is adapted for persons with disabilities. Some TV stations

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<sup>19</sup> Article 46. of the *Zakon o izmjenama i dopunama Zakona o cestovnom prevozu FBiH* (FBiH Official Gazette, no: 2/10 from 18/01/2010)

<sup>20</sup> MyRight Izvještaj o individualnim iskustvima, 2013: p. 60

do broadcast the occasional hour, once a week, for hearing-impaired individuals, but all other programming, whether news and current affairs, cultural, educational, sport or films and series, remains inaccessible. The Regulatory Agency for Communications of Bosnia and Herzegovina, which could take action on these issues, relies upon members of the public to report failures of compliance by public electronic media. Needless to say, even this government agency's Internet page is not accessible to all persons with disabilities, nor should one forget that many people with disabilities have no access to the Internet. Such individuals have no alternative form of access to the agency than going directly to the address and the RAC building itself is, simply put, not accessible to persons with disabilities.

During the media monitoring process,<sup>21</sup> violations were noted of article 8 of the Convention, paragraph 2c, insofar as there is widespread ignorance of the rights of persons with disabilities amongst public service staff. In fact, there was only one case of an applicant with a disability actually being properly treated and in that case it was an individual who is both technically expert and politically active.<sup>22</sup> The theme of access is barely dealt with at all in the media and even when raised is not discussed appropriately or accurately.<sup>23</sup> In coverage of media conferences held by DPOs, "accessibility" may be mentioned in passing as an obstacle, as is the fact that persons with disabilities face physical and communicational obstacles, without, however, any further explanation of what this means precisely or how the problem might be dealt with.<sup>24</sup>

Suitable access is not provided to public services, even though a legal framework exists at all levels of government restricting technical certification of government buildings to those accessible to everybody.<sup>25</sup> When it comes to accessing basic services, therefore, persons with disabilities remain excluded, because not even the institutions providing those basic services are adapted to their needs.

Educational institutions are not accessible to all persons with disabilities, which hinders participation in one of the basic pillars of human development – education, violating article 9 of the Convention, paragraph 1a, and article 24, paragraphs 2b and 5.

The monitoring report of the Sarajevo Coalition's Steering Committee was put together in 2013. It shows that of 85 schools and educational establishments in the city of Sarajevo (the four city

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<sup>21</sup> MyRight *Izveštaj o medijskom monitoringu*, Sarajevo, November 2013

<sup>22</sup> *Ibid*, p. 21

<sup>23</sup> A total of 13 texts have been published which deal with accessibility at least to some degree, but i Internet access and contemporary forms of IT are not mentioned in any text

<sup>24</sup> *Ibid*

<sup>25</sup> *FBIH Uredba o prostornim standardima, urbanističko-tehničkim uslovima i normativima za sprečavanje stvaranja arhitektonsko-urbanističkih prepreka za osobe s umanjnim tjelesnim mogućnostima* and *Pravilnik o uslovima za planiranje i projektovanje građevina za nesmetano kretanje djece i osoba s umanjnim tjelesnim sposobnostima RS*

municipalities) only 17 are actually accessible, a further 17 are partially accessible (the entrance is accessible, but students cannot move freely within the school), and 51 are entirely un-accessible. Monitoring by the Mostar “Stronger Together” Coalition in Herzegovina Neretva Canton also found that only two of 43 schools in Mostar city were even partially accessible to persons with disabilities (adapted entrances and nothing further). Students report on their negative experiences as follows:<sup>26</sup>

“I get about in a wheelchair. The school isn’t really accessible. Quite a lot of classes take place upstairs, but there are steps, so I can’t go to some.” (Male, Bijeljina, age 18-25).

*Monitor 2:* Did you finish secondary school?

*Interviewee:* No.

*Monitor 2:* Why?

*Interviewee:* Because of the un-adapted entrance to the school building and because of my disability.” (Male, Tuzla, age 18-25).

With public healthcare institutions, disabled persons again face problems of access. They cannot always go independently to the dentist or doctor. All too often, their need for additional assistance is due simply to the fact that public institutions are not properly adapted to allow them unhindered access. This violates article 25 of the Convention, paragraph 1a, because unadapted healthcare institutions do not facilitate or allow the enjoyment of health services at an equal level with other citizens.

“Disabled persons, particularly persons in wheelchairs, depend on others to assist them when going out, for example, to healthcare institutions, whose entrances are not accessible, and more generally, in simply going outside onto the street.” (Female, Tuzla, age 18-25)

Persons with disabilities have a right to vote and be elected to all the same public offices at all levels of government and to participate equally in activities and in the management of non-governmental organisations and associations, including political parties and disabled persons organisations. Participation in political life is particularly rare and difficult for persons with 100% disability. The occasional case of participation by a disabled person in government or politics has been recorded, but these have to do in most cases with lower degrees of disability, which nonetheless allow these individuals to look after themselves fairly independently and to move about independently without assistive devices. To date, only two individuals with 100% disability have been members of executive or legislative authorities in Bosnia and Herzegovina, whether at state or entity level, both in the past five years. A glance at the various ministries and assemblies

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<sup>26</sup> MyRight Izveštaj o individualnim iskustvima p. 56

at these levels of government reveals 0.5% participation by persons with disabilities, which represents a violation of article 29 of the Convention, paragraph b.<sup>27</sup>

Voting procedures, means and materials must officially be appropriate and accessible, with confidentiality of the ballot and of ballot papers both protected and guaranteed, but clear procedures on how to ensure these rights in practice are not stipulated in the regulatory acts. Much the same goes for physical access to voting places, as individuals with more severe disabilities, who do not wish to exercise their right to mobile teams, precisely because of the confidentiality of their ballot, cannot in most cases actually access the polling station. Nor are persons with disabilities provided the use of assistive and new technologies during the voting process, which is a violation of article 29 of the Convention, paragraph 8.

In an attempt to ensure equality of opportunity for persons with disability, in 2011, the Council of Ministers of Bosnia and Herzegovina established a Council for Persons with Disabilities or National Disability Council, as a consultative body. One of its tasks was to monitor implementation and application of the Convention and ensure DPO participation in the processes. Although this body has now been in existence for nearly 3 years, persons with disabilities in Bosnia and Herzegovina have felt no impact from its work. Given the failure to sort out its funding by the state and the limited participation by persons with disabilities in it, it seems possible to conclude that this body does not represent an appropriate independent mechanism for involving persons with disabilities in promoting and monitoring implementation of the Convention, any more than in processes of decision-making or analysing the status and development of strategies and action plans. This is in direct violation of article 33, paragraph 3 of the Convention. One example is activities on drafting the *Initial Report*, which does not include opinions representative of the majority of individuals with disabilities or their representative organisations, again violating article 29 of the Convention.

*Interviewer:* Regarding sports, are there any particular concrete circumstances in which you have been prevented from participating in a given sporting event, directly as a consequence of disability?

*Interviewee:* Well, I haven't come across such a situation where I have been prevented, *per se*, but social and political organisations have stopped me from being active with regard to certain of my needs, I mean in certain sporting disciplines. The reason for this is the laws on sport and support for disabled sport haven't been passed, and, well, just generally. (Male, Sarajevo, age 41-55).<sup>28</sup>

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<sup>27</sup> The following were included in this *ad hoc* assessment: 41 ministers, the members of three parliamentary assemblies (BiH and both entities), 213 politicians, and 91 presidents and advisers at three levels of government making a total of 304

<sup>28</sup> Ibid. p. 75



On the other hand, DPOs, whose work is underfunded, whether from budgetary or project sources, do not have the material, human or other resources to monitor social processes actively or participate in them. DPOs face, year in year out, reduced allocation from governmental and institutional budgets for their operations and projects. This places additional obstacles in the way of their participation in political decision-making processes and ensuring politicians are adequately informed or lobbying for rights. This is a direct violation of article 1 of the Convention, insofar as it directly hinders the full and effective participation by persons with disabilities in society on an equal basis with the other members of that society. It also represents a violation of article 29 of the Convention, paragraph b, insofar as given inadequate resources, DPOs cannot continue with their work of offering services to persons with disabilities, services which in most cases governmental institutions are not offering. Appropriate resources are not planned under the institutional budgets of state or entities for implementing policies or measures to ensure full inclusion of persons with disabilities in society and the work of their organisations. One exception is the funds budgeted for social spending and for support to other services, which should, however, be significantly improved. Passage of the *Law on the Professional Rehabilitation and Employment of Persons with Disabilities* means that the conditions are now in place to establish additional budgetary funds to support realisation of these rights in the areas of work and employment.<sup>29</sup>

Individuals with disabilities in rural areas are particularly affected by social exclusion, insofar as they have even less access to public institutions than in urban centres, with fewer appropriate sources of information, while they come up against more prejudice and taboo, which also acts to exclude socially.

Participation and inclusion are declared to be basic principles in the constitutions and laws of Bosnia and Herzegovina, where these principles are stated to apply generally to all citizens, regardless of differences. In looking at legislation in Bosnia and Herzegovina as a whole, one may agree that one of its fundamental principles is equal participation by all citizens in all processes and activities and that, from that point of view, legislation in Bosnia and Herzegovina may be said to be in line with international standards related to human rights. Nonetheless, these principles and this legislation are not reflected in practice. An approach of business-as-usual results in the exclusion of persons with disabilities from most social processes, while rendering it impossible for them to be involved in decision-making of interest to them. This is particularly true for individuals with a high degree of disability or multiple disabilities, who cannot objectively participate in any equal way in community activities without special support and significant adaptation of the environment. Here, Bosnia and Herzegovina is directly violating article 9 of the Convention, but, given that the rights guaranteed under articles 19, 20, 21, 24, 25, 27, 28 and 29 cannot be enjoyed either, these articles of the Convention are also being indirectly violated.

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<sup>29</sup> MyRight Izveštaj o monitoringu sistema - Šablon DRPI, p. 6

Regulations to secure participation and inclusion do not themselves ensure the conditions for equal participation and inclusion by persons with disabilities, with the result that insufficient account is taken of the dignity and independence of those individuals. Moreover, differences are not respected and discrimination is not forbidden, nor is full equality between persons with disabilities ensured, violating article 19 of the Convention.

The equality of individuals with disability with others has been formally enshrined in law, as has their participation in public and political life, but the appropriate mechanisms and support, required for them to have the same opportunities as other citizens have not been envisaged.

It is possible without hesitation, therefore, to conclude that the existing regulations in Bosnia and Herzegovina do not appropriately respect the principles and general obligations set out in the Convention. Consequently, full respect for the dignity and independence of persons with disabilities is not ensured, any more than respect for difference or equality of opportunity. Bosnia and Herzegovina is systematically violating the rights of individuals with disabilities. Any positive examples of attempts by government institutions to apply or implement the Convention in Bosnia and Herzegovina under the aforementioned articles are unsystematic and *ad hoc* both temporally and geographically and in effect serve to support only a small number of individuals with disabilities, so that their existence passes unnoticed by most people with disabilities in Bosnia and Herzegovina.

***Recommendations to improve the social inclusion and participation of PwDs:***

- All levels of government must take active measures to raise awareness in society as a whole regarding the rights and capabilities of persons with disabilities with a view to combatting stereotypes, prejudices, and harmful behaviour directed at PwDs, including those based on age, gender, LGBT orientation, etc.;
- Create mechanisms at all levels of government to ensure consistent application of accessibility standards for premises and services, making clear responsibilities and sanctions;
- Provide local and central government funding to ensure accessibility, including the adaptation of public premises and facilities, continuous monitoring of the enforcement of accessibility standards, provision of sign language interpretation services and signage and other materials in Braille, etc, as one of the areas of focus of local disability action plans;

- Legislate and regulate at all levels of government to establish a system providing PwDs with the services of personal assistants in daily life with a view to securing equality of opportunity;
- Develop a range of programmes and measures strengthening the capacity of families of children with disabilities, in terms of the knowledge and skills required for them and their children to function better in society and so avoid institutional care;
- Provide a legal framework and funding for DPO participation in consultative and decision-making processes relevant to PwDs at all levels of government;
- Work on developing PwD and DPO awareness and capacities, targetting full use of existing anti-discrimination mechanisms in pursuit of declared rights and freedoms at all levels of government;
- Make public transport providers legally responsible for ensuring public transport is actually accessible to PwDs;
- Enshrine the right of PwDs to information in appropriate and accessible formats and modalities (sign language services, Braille, large print, audio or electronic recordings, easy-read text, non-verbal forms, standardised accessibility to public institutions' Internet pages and the use of facsimiles by blind or vision-impaired individuals) in law and regulatory codes at state, entity and cantonal levels and ensure funding for implementation;
- Ensure equal participation by PwDs in the electoral process, in line with UN standards, including accessibility, confidentiality of the ballot and the provision of election materials and voting papers in all the accessible formats.

## **4.2 Discrimination on the basis of cause of disability or circumstances under which it came about**

Regarding this key issue, the following articles of the Convention are being directly violated:

- **5. Equality and non-discrimination,**
- **28. Acceptable standard of living and social protection,**

while the following articles of the convention are being indirectly violated:

- **20. Personal mobility,**
- **24. Education,**
- **25. Healthcare,**
- **26. Habilitation and rehabilitation, and**
- **27. Employment.**

Legislation in Bosnia and Herzegovina enshrines at least one particularly marked form of discrimination regarding persons with disabilities, where the scope and content of their rights and the conditions for realising them are based upon why and how their disability came about, place of residence, or age, and not on individual needs or achieving adequate living conditions and equality of opportunity. We present below in more detail an example related to the different levels and forms of support offered to individuals whose disability was directly or indirectly caused by wartime events, as opposed to those whose disability was caused by other reasons or under other circumstances.

In comparing the benefits received by those disabled during the war and those received by individuals whose disabilities did not come about during the war, but were the result of accident, sickness or birth (legislation in Bosnia and Herzegovina uses the cumbersome term “non-war disabled”), it quickly becomes clear that these two groups of persons with disabilities are in receipt of very different amounts of resources and assistance. Moreover, there are differences in how the need for social protection is determined. This is the case in both entities, so that in both the FBiH and the RS the “non-war disabled” receive approximately one fifth the benefit that disabled war veterans with the same degree of disability do. Civilian victims of the war are the third group of individuals with disabilities, as defined by Bosnian and Herzegovinian law. This group of persons with disabilities is in a somewhat better position than the “non-war disabled,” but nonetheless still receives lower amounts than the disabled war veterans. “The non-war disabled” with 100% disability receive a maximum of 396 KM per month, while disabled war veterans with the same degree of disability can receive up to 1845 KM per month. In the RS, the maximum available to the “non-war disabled” is 160 KM per month, while disabled war veterans with the same degree of disability can receive up to 1825 KM per month.<sup>30</sup>

These differences in benefits for disabled war veterans and civil victims of the war, compared to other persons with disabilities, are unacceptably large in amount and scope and have a major impact in practice on their overall living conditions and functioning. They are in direct violation of article 28 of the Convention. There are other significant differences in the criteria for receiving assistance for various groups of individuals with disabilities. From 2009, “non-war disabled” individuals can only exercise a right to funds if their level of disability is 90% or higher, thus denying any type of assistance to all individuals with a lower degree of disability. For civil victims of the war, the level of disability must be 60% or higher to entail a right to material assistance, but for disabled war veterans the required level is only 20%.<sup>31</sup> Disabled war veterans enjoy a similar

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<sup>30</sup> See *Ministarstvo za rad i boračku zaštitu RS - Rezultati rada 2005-2009*, May 2009. The *Zakon o ostvarivanju prava na naknadu materijalne i nematerijalne štete nastale u periodu ratnih dejstava od 20. maja 1992. do 19. juna 1996. godine* (Official Gazette of the RS, no. 103/05, 1/09, 49/09 and 118/09), the *Zakon o socijalnoj zaštiti RS* (Official Gazette of the RS no. 24/2011)

<sup>31</sup> *Zakon o osnovama socijalne zaštite, zaštite civilnih žrtava rata i zaštite porodice sa djecom* (Official Gazette of the FBiH, no. 36/99, 54/04, 39/06, 14/09), *Zakon o socijalnoj zaštiti RS* (Official Gazette of the RS, no. 37/12), *Zakon o socijalnoj zaštiti (Brčko Distrikta Official Gazette*, no. 1/03, 4/04, 19/07, 2/08), and the *World Bank Report on Public Spending 2012*

advantage regarding benefits with regard to once-off monetary payments, spa-based physiotherapy/rehabilitation, and housing programmes for disabled war veterans and the families of fallen soldiers.<sup>32</sup> The following individual testimony relates to orthopaedic aids, with the interviewee claiming that disabled war veterans have a right to more frequent replacement of orthopaedic aids than the “non-war disabled”:

“Well, I would like to say, with regard to our orthopaedic aids, the government has done all it can to make it difficult for us to get those aids. Instead of making it as easy for us as possible, they’ve made everything complicated. I have a right to one ill-fitting prosthesis every three years, and no right to anything else.” (Male, age 41-55, Dobož).<sup>33</sup>

Thus, a wide range of rights, including access to healthcare institutions, habilitation and rehabilitation, which should be equally available to all individuals with the same level of disability and the same needs, is determined exclusively on the basis of the individual’s status and the cause of their disabilities.

Even though Bosnia and Herzegovina allocates a relatively high percentage of GDP for social spending by European standards, namely 4%, this has little impact on most persons with disabilities. The only exception is those whose disability was caused by the war. Two thirds of all spending on social protection, that is 66% in the FBiH and 75% in the RS,<sup>34</sup> goes to disabled war veterans and civil victims of the war.

Media monitoring has shown that there is no public discussion of discrimination based upon cause of disability and that the legal advantages accorded to disabled war veterans over against “the non-war disabled” are also reflected in their respective presence in the media. Where people with disabilities are mentioned with reference to the causes of disability, then they are discussed separately and, most often, it is a matter of the disabled war veterans. For example, regarding reporting on the right of persons with disabilities to healthcare, one may state that, while there will be some journalistic coverage of it, it will be largely restricted to stories about revising the rights of the veteran population. At one point, much was being written about the Institute for Medical Examination in the papers, but exclusively in terms of its guilt and responsibility for stripping veterans and defenders of the country of rights they had previously held. “Non-war invalids” do not rate any form of mention in the media. Generally speaking, then, the newspapers only write about persons with disabilities in respect of the revision of the rights of the veteran population. In a certain sense, the rights of persons with disabilities are here ultimately obscured by other, not infrequently, political, interests.<sup>35</sup>

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<sup>32</sup> See Ministarstvo za rad i boračku zaštitu RS - Rezultati rada 2005-2009, May 2009

<sup>33</sup> MyRight Izvještaj o individualnim iskustvima, p. 76

<sup>34</sup> World Bank Report on Public Spending 2012, p. 36, graph 3.1.6

<sup>35</sup> MyRight Izvještaj o monitoring medija, p. 23

The *Initial Report* mentions inequality of rights between various groups of persons with disabilities on the basis of the cause of their disabilities, but does not go so far as to actually explain the current situation or to propose any ways in which it might be dealt with in the foreseeable future.<sup>36</sup>

While no specific regulation encountered during the monitoring of the system in Bosnia and Herzegovina, from the constitutions down, formally places persons with disabilities in a subordinate position because of their disabilities, the above examples serve to show that in practice the situation is quite different and that, by providing different services to different groups of the population with disabilities, the state and the various levels of government are in direct violation of articles 25 and 28 of the Convention and in indirect violation of articles 20, 24, 26 and 27, for hindering their enjoyment.

### ***Recommendations on eliminating discrimination against PwDs:***

- Ensure that entity-level laws make no distinction between the rights to support for equalisation of opportunity accorded persons with disabilities on the basis of how or when their disabilities came about;
- Define and ban discrimination on the basis of disability in the constitutions and in any laws which touch on the enjoyment of human rights and fundamental freedoms, including especially the Anti-Discrimination Law of BiH;
- Bring the definition of disability in BiH legislation into line with the definition in the Convention: in doing so, explicitly recognise the importance and impact of environmental factors and build them into the definition itself;
- Provide an institutional mechanism for affirming the status of persons with disability and adopt a single set of criteria for assessing that status, regardless of the cause of the disability.

## **4.3 Denial of service in the areas of education and healthcare**

One of the key conditions for creating equality of opportunity between persons with disabilities and citizens without disabilities is equal access to all services offered by government institutions and public bodies, including private institutions. Research worldwide has shown that access to appropriate services has a knock-on effect on the social inclusion of persons with disabilities, as well as their independence and ability to function in society and the community.

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<sup>36</sup> Initial Report by BiH on Implementation of the Convention, paragraphs 54, 123, 183 (p. 51)

One characteristic of the model of services offered to persons with disabilities in Bosnia and Herzegovina, even where such services do exist in the community, is that they are based on a medical model of care rather than a social one. There have been sea-changes within the process of medical assessment to take into account persons with disabilities' other abilities, but these steps have been much slower than hoped for and unsure and are yet to be reflected in service provision.

The key services not offered to individuals with disabilities under equality of opportunities are access to education and healthcare.

With regard to this key issue, the following articles of the Convention are being directly violated:

- **5. Equality and non-discrimination,**
- **9. Access/accessibility,**
- **24. Education,**
- **25. Healthcare, and**
- **26. Habilitation and rehabilitation,**

while the following are being indirectly violated:

- **27. Employment and**
- **28. An acceptable standard of living and social protection**

### **4.3.1 Education<sup>37</sup>**

In Bosnia and Herzegovina, education is supposedly available to all citizens under equal conditions, but no clear forms of support are set out for persons with disabilities to create equality of opportunity and access to the processes of education.

The most evident drastic examples of discrimination and exclusion from the education process relate to children and young people with physical disabilities, as architectural barriers or obstacles at regular schools have not been dismantled or removed. Moreover, because of a lack of sign language interpreters and other classroom assistants, as well as of literature or materials in Braille or other techniques accessible to the blind and visually impaired, the range of occupations for which those with disabilities due to sensory impairments can train at secondary school level is restricted. In similar fashion, children and young people with intellectual

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<sup>37</sup> The constitutions of BiH and the entities guarantee the right to education for all citizens under equal circumstances, with obligatory and free primary schooling, and secondary and higher education available to all on equal terms, which is specifically cited as a right belonging to persons with disabilities. The legislation governing this area at state level includes framework laws on primary, secondary and higher education which set out the basic principles and standards for education in BiH. The laws place no obligation on any institutions at the level of BiH to allocate resources in their budgets for implementation or enforcement of the laws governing education, other than for monitoring and coordination

disabilities or autistic spectrum disorders are excluded from inclusive teaching, so that they are predestined to segregation from kindergarten through secondary school.

Regardless of the political decision and the legal declaration of equal rights to education and to inclusive education for children and other individuals with disabilities, in Bosnia and Herzegovina there still exists a system of providing such children with education in both regular and special schools. The special schools provide education for a smaller number of such children and still operate on the basis of the medical model.

There is no clear legal directive requiring governmental institutions to ensure the necessary textbooks and teaching aids in appropriate formats or technologies (Braille, large print, easy read), typhlological aids and other assistive devices, or teaching and classroom assistants, sign language interpreters, and so forth, resulting in significant exclusion of individuals with disabilities from the educational process at all levels. Where legal provision has been made, it is incomplete, as it does not include sanctions.

“I get about in a wheelchair. The school isn’t really accessible. Quite a lot of classes take place upstairs, but there are steps, so I can’t go to some.” (Male, Bijeljina, age 18-25).<sup>38</sup>

*Monitor 2:* Did you finish secondary school?

*Interviewee:* No.

*Monitor 2:* Why?

*Interviewee:* Because of the un-adapted entrance to the school building and because of my disability. (Male, Tuzla, age 18-25).<sup>39</sup>

Legal regulations<sup>40</sup> also declare a right to education on equal terms for all children and young people, without any form of discrimination, through inclusive education at all levels. Nonetheless, this is simply a formal provision and practical application of inclusive education is not as yet possible, due to the nonexistence of lower-level regulations and codes. The preconditions simply have not been created in practice for implementing the legal provisions, given that the regulations and codes to provide an accessible environment, with appropriate orthopaedic and typhlological and other aids, teaching materials and textbooks, classroom assistants, and so forth, do not yet exist, any more than dedicated resources allocated for this purpose in budgets. Where dedicated resources have been allocated in both entities, however, is to finance the work of specialised schools for individuals with disabilities, which speaks most

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<sup>38</sup> MyRight Izvještaj o individualnim iskustvima, p. 56

<sup>39</sup> Ibid, p. 56

<sup>40</sup> *Okvirni zakon o osnovnom i srednjem obrazovanju* (Official Gazette of BiH, no.: 18/03), *Okvirni zakon o visokom obrazovanju* (Official Gazette of BiH, nos.59/07 and 59/09), *Zakon o osnovnom obrazovanju* (Official Gazette of the RS, nos. 74/08,106/09 and 104/11)



eloquently to the approach actually preferred by government authorities towards inclusive education.

In the field of education, the respondents in the *Report on Individual Experiences* are cited as stating that the greatest difficulties they had were with the principles of participation, inclusion and accessibility. They mention discrimination on the basis of disability as resulting in denial of their right to a higher level of higher quality education:

*Monitor:* Tell us what was the reason that you didn't enrol for social work studies, what was the reason you didn't continue attending university?

*Interviewee:* The reason was lack of acceptance by the Rector and the professors. One professor told my mother, "... Just take her away from here, so I don't have to look at her any more..." As though, I suppose, what I looked like was the issue. I was there, just a couple of metres away from them. (Female, Tuzla, age 26-40).<sup>41</sup>

*Monitor:* Can you mention another situation in the past five years when you felt left out, that you had been discriminated against, or that some one of your rights was in some way at risk?

*Interviewee:* Well, no. Well, maybe I might mention one situation, and that is, while sitting for an exam, when I was asked, along with another student, who also had a visual impairment, not to take the test orally, but to sit for a written test. That was the head of that stream and she was the only one who ever asked for that. So, we passed all our exams orally, except with her. She was the only one who asked for us to bring a colleague in with us, who wasn't from our stream, to pass an exam." (Female, Sarajevo, age 18-25).<sup>42</sup>

There are framework laws on preschool socialisation and education and on primary and secondary education, as well as a law on higher education and legislation covering the area of education at state level, which set out the basic principles and standards for education in Bosnia and Herzegovina. These laws do not, however, oblige governmental institutions to allocate resources in their budgets for enforcement of education legislation, except for funds for monitoring and coordinating these activities. So, funds are planned, but only for schools for special education. Only sporadic allocation is made for teaching assistants, an internationally recognised mechanism for facilitating inclusion, and even that exclusively through the work of non-governmental organisations.

Even if the right of "children with special needs"<sup>43</sup> to individualised programmes within the framework of inclusive education is mentioned in the *Initial Report of BIH*, there are no institutions

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<sup>41</sup> Ibid, p. 56

<sup>42</sup> Ibid, p. 57

<sup>43</sup> The definitions of child or person with disabilities from the education law are not in line with the Convention

with specialised staff trained to provide such services.<sup>44</sup> It is only in the larger towns that there are any staff at all who are in any way expert regarding any forms of disability and could participate in assessing the capacity of children with disabilities or special needs, and thus contribute to developing individual programmes for them. In rural areas, such services simply do not exist. And even in towns, when children do receive individualised programmes, the capacity does not exist to monitor their work or realise these individualised programmes properly. The lion's share of the work continues to be carried out by disabled persons' organisations, whose founders are, for the most part, the parents of children with disabilities, who, when faced with violations of article 24 of the Convention, have understood that they must take things into their own hands. Not uncommonly, the authorities, like the pedagogical institutes, question such DPO activities, even though they neither have the criteria the non-governmental organisation are using to offer these educational services nor access to expert staff capable of assessing all these forms of disability themselves. They are thus hindering the positive steps being taken by disabled persons' organisations and the parents of children with disabilities, without making any positive contribution themselves.

The report contains a claim that services are now being offered to individuals with disabilities attending university, citing an example of a university that has an associated Centre for Persons with Disabilities, which has, allegedly, resulted in an increase in the numbers of persons with disabilities studying there.<sup>45</sup> A look at the actual statistics related to this alleged progress reveals that of the 17,000 students at the University only four are persons with disabilities, a highly discouraging 0.02% of the total number of students.<sup>46</sup>

The question of early habilitation and rehabilitation has not been dealt with in any detail under any particular law nor is the need for access to preschool education recognised at all, particularly for children with multiple or severe disabilities or children with disabilities in rural areas. The conditions for early intervention simply do not exist, any more than those for adapting an individualised approach to the youngest children with disabilities in order to help them gain the knowledge they need to fit into kindergarten, making it easier for kindergarten and school staff to work with them. In fact, even most children with disabilities from urban communities are not included in regular preschool education and socialisation, even though the laws covering this area stipulate it for all children under equal conditions. This is in direct violation of article 26 of the Convention.

It is precisely because of this approach taken by the government and the lack of funding for regular inclusive education that children and young people have no access to quality education that would facilitate the development of their human potential and individual value. Over the

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<sup>44</sup> See paragraphs 155, 157, 159

<sup>45</sup> *Initial Report*, paragraph 176

<sup>46</sup> Source: Banja Luka University <http://www.unibl.org/sr/stranica/O-Univerzitetu/7> (accessed 20/10/2013)

longer term, this approach by the responsible institutions is causing persons with disabilities to be highly disadvantaged in society, excluding them from the social mainstream and relegating them to poverty and the margin of social activities.

### 4.3.2 Healthcare

Under the existing laws, individuals with disabilities are not provided equality of access, quality or standard of healthcare, particularly with regard to services in sexual and reproductive health and public healthcare programmes intended for the general public, which represents a direct violation of article 25 of the Convention.<sup>47</sup>

Most primary healthcare institutions in both urban and rural environments are physically inaccessible, denying persons with disabilities any kind of access to healthcare or, at best, allowing access under undignified conditions (for example, wheelchair users may have to be carried up and down steps or across other forms of barrier), in violation of articles 9 and 25 of the Convention.

“One of the basic things we all experience on a daily basis are the barriers or obstacles we face during a simple trip to a routine doctor’s appointment or to an institution of any sort. I may, for example, find myself facing steps without even a simple handrail to help climb them, and so, for me, they become an unbridgeable obstacle,” (Male, Bijeljina, age 41 to 55).

*Monitor:* Tell me, given that you are in a wheelchair, what is the access like to Banja Dvorovi?

*Interviewee:* Very poor... On one occasion, I slipped and would have fallen, if somebody hadn’t grabbed hold of me. It’s a very steep slope, it’s a formality. It takes more than one person to let me down, it takes two to let me down. And I still have to lean fully forward and break with my hands, that’s the Banja for you, and it certainly isn’t for those of us with disabilities who are in wheelchairs. (Male, Bijeljina, age 56-70).<sup>48</sup>

There are no services specially targeted for women with disabilities (gynaecological services related to maternity and counselling on reproductive health). There appears to be only one

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<sup>47</sup> *Zakon o zdravstvenoj zaštiti (Official Gazette of the FBiH, no. 29/97), Zakon o zdravstvenom osiguranju (Official Gazette of the FBiH, nos. 30/97, 7/02 and 70/08), Zakon o izmjenama i dopunama Zakona o zdravstvenom osiguranju (Official Gazette of the FBiH, no. 70/08), Odluka o utvrđivanju osnovnog paketa zdravstvenih prava (Official Gazette of the FBiH, no. 21/09), Zakon o zdravstvenoj zaštiti Brčko Distrikta (Official Gazette of Brčko District, nos. 2/01, 19/07, 2/08) and the Zakon o zdravstvenom osiguranju Brčko Distrikta (Official Gazette of Brčko District, nos. 1/02, 7/02, 19/07, 2/08, 34/08)*

<sup>48</sup> *Ibid.*, p. 31

examining chair for gynaecological examinations of women with disabilities who are not mobile and there are no birthing chairs.<sup>49</sup>

“The Obstetrics and Gynaecological Centre burned down when I was pregnant. 10 years ago. They renovated it, but there is no lift, which disappointed me. The clinic for ultrasound examinations is on the second floor and I have difficulty getting up there for an examination.” (Female, Sarajevo, age 45-55).<sup>50</sup>

Nor are other healthcare services any better adapted for individuals with disabilities who are not self-mobile or for children and adults with intellectual disabilities. For example, from the experience of contributors to this report it appears that the University of Sarajevo Clinical Hospital’s Dental Clinic offers services for children and grown-ups with intellectual disabilities, but there is only one session per month for treatments to repair teeth under general anaesthetic. It is not uncommon for persons with disabilities, having waited for dental repair treatment, to end up have the tooth out, because repair has been delayed for too long. Private clinics charge between 1000 and 2000 KM, or nearly 3 average salaries, to repair teeth under general anaesthetic.

Diagnostic and other instruments and equipment, e.g. for radiological treatment and diagnosis or operating tables, particularly for use with individuals with severe disabilities, either do not exist or have not been adapted.

There does not appear to be any possibility of using targeted, but rare medicines for preventing increased disability or indeed specialised feeding programmes with a view to preventing or reducing disability. For example, in the RS, there is a food subsidy for coeliac disease sufferers, but it is not given to individuals with autistic spectrum disorders, who are often put on a gluten-free diet. In the FBiH, no such subsidy exists for any group of persons with disabilities. A kilo of gluten-free flour is nine times more expensive than a kilo of ordinary flour.

Medical rehabilitation programmes are not available to all persons with disabilities who need them. The need for medical rehabilitation is not determined on the basis of need, but rather by the cause of disability, or rather the existence of a budgetary allocation and spending for specific groups of persons with disabilities, which is in direct violation of article 26 of the Convention.

There are no programmes to ensure appropriate identification of need for orthopaedic and other assistive devices, tailored to the individual, any more than there are programmes to provide hygienic and sanitary materials, which is a direct violation of article 20 of the Convention. Individuals with disabilities speak eloquently about their experiences:

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<sup>49</sup> Not including private clinics for which no exact data are available

<sup>50</sup> Ibid, p. 31

“This wheelchair was made, adapted for me personally. The other wheelchairs were poor quality and would break within a year and I have a right to a new wheelchair only every four years. So I always had to shift from myself for new wheels.” (Male, Bijeljina, age 18-25).<sup>51</sup>

“I’m a disabled person with an orthopaedic aid. According to the regulations. I have a right to orthopaedic shoes every four years. But shoes don’t last me four years... Who can wear shoes for four years, please? I went and complained about it and was refused.” (Male, Dobo, age 41-55).<sup>52</sup>

*Monitor:* Are you satisfied with the quality of the wheelchair?

*Interviewee:* Not really, I think it’s a very poor wheelchair. This is the one for 800 marks. That is, I guess, the cheapest one. But that’s all we have a right to, because that’s how they planned it. Whoever made it is probably not very experienced in this regard, or not very interested. There is nothing to catch hold of with your hand. With this one, if it gets loose, you’re off.” (Female, Tuzla, age 56-70).<sup>53</sup>

“From personal experience, I can say this: each level of government, state or cantonal, sets a figure for orthopaedic aids. Well, the list of orthopaedic aids in the law at the federal level looks very pretty and, in my opinion, is a very good one. But, then, the actual lists vary from canton to canton – cantons with money make better lists. Our canton’s list, in my view, is, to say the least, catastrophic and shameful. Someone with a disability, quadriplegia, like me, has around 1200 marks for a wheelchair to spend once in their lifetime, if we’re talking figures. So they get it once and then they have no right, ever again. But you can’t do anything with 1200 marks. An electric motorised chair costs between 4000 and 10000 marks, and you get 1200 marks to make do.” (Male, Tuzla, age 26-40).<sup>54</sup>

There is a right under article 33 of the Law on Health Insurance of the FBiH to orthopaedic and other assistive devices, but it is subject to medical indicators, like the right to medications, the list for which is set by the cantonal health insurance institutes. Making exercise of the right to orthopaedic assistive devices dependent on purely medical indicators has the effect of limiting very significantly the possibility of receiving appropriate individually tailored aids, of the sort required by persons with disabilities for daily life. Moreover, that authority regarding the right to aids and medicines lies with the cantonal ministries of health results in inequality of access, with significantly differing rights by canton, placing individuals with disabilities in a very

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<sup>51</sup> Ibid, p. 36

<sup>52</sup> Ibid, p. 36

<sup>53</sup> Ibid, p. 37

<sup>54</sup> Ibid, p. 37

disadvantageous position.<sup>55</sup> This example clearly shows the extent to which the state of Bosnia and Herzegovina does not or cannot protect human rights, since even where they are legally recognised, they are not actually protected by implementation of the law.

When we come to the matter of children with disabilities, no support services of any kind from medical or educational institutions are envisaged during the process of medical examination or observation to determine the degree, or indeed existence of a disability. These processes are often very painful, time-consuming and financially burdensome for the families, with a particular impact on the stability of marital relations. Yet there are no counselling services or therapy for parents or other family members passing through the process of accepting the newly emerging situation within the family. Many experiences of individuals with disability speak to the fact that the very way in which diagnoses or assessments are announced can be very discomfiting and fail to take into account the feelings of parents and other family members.

***Recommendations on ensuring the basic education and healthcare rights of PwDs:***

- Harmonise the principles of good quality inclusive education at all levels of education with the Convention and secure the financial and other resources required for implementation: Include the relevant ministries of education, pedagogical institutes, public information services and media and non-governmental organisations, particularly disabled persons organisations;
- Eliminate all discriminatory phrasing from legislation and other provisions in the field of education, bringing the provisions into line with the definitions from the Convention;
- Legislate and otherwise regulate at all levels of government for the establishment of a system of assistive services in education, to support the inclusion of children and other persons with disabilities in the general educational system and ensure funding for the same;
- Require the education ministries and relevant local level institutions to budget separately for inclusive education, which entails: ensuring architectural accessibility, purchasing the required orthopaedic, typhological and other aids, teaching materials, textbooks and other literature, in accessible formats and modalities, as well

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<sup>55</sup> No clear allocation has been made in the budgets of the ministries responsible for health or the health insurance bureaus for the procurement of orthopedic and other aids, in particular not for those whose use would increase the degree of inclusion by individuals with the most severe disabilities, nor are funds planned for adapting facilities or equipment to make them suitable for the health care needs of persons with severe disabilities

as securing other forms of support (teaching assistants, sign language interpreters, and personal assistance, etc);

- Carry out an urgent assessment of the accessibility of all educational and healthcare facilities, including all levels of education, ensuring the application of sanctions and other measures to ensure accessibility;
- Include a mandatory element on training for inclusive education in all training programmes for teaching staff;
- Ensure observation of children with disabilities takes place within their educational environment, without the need to displace them for the purposes of observation;
- Review the standards for assessing disability in children and admitting them to day centres and other forms of institutional care, to ensure that children who can attend inclusive classes are not excluded from the regular educational process;
- Introduce certification of teaching and other staff authorised to assess the degree of a child's disability, capacities and potential;
- Enshrine in legal and other regulatory provisions at all levels of government the right to healthcare of all individuals with disabilities;
- Stipulate clearly in the entity laws on health insurance the criteria for issuing aids or assistive devices to individuals with disabilities, with a view to ensuring personal mobility and ability to participate in social life. These criteria should ensure an individualised approach, so that the aids are issued in accordance with the real needs of the disabled individual, rather than based on the diagnosis alone;
- Stipulate clearly in both entities' health insurance laws the right of all individuals with disabilities to orthopaedic, typhological and other aids, the quality standards for such aids, criteria for issuing them, and the budgetary modalities for funding;
- Develop programmes and measures to stimulate work on preventing disability;
- Stipulate clearly in entity-level law and other provisions the standards for architectural accessibility and outfitting, requiring their application to any new construction in healthcare and setting a time frame for the adaptation of existing buildings and purchase of equipment.

#### **4.4 Poverty, PwDs and their families**

In any discussion regarding people with disabilities and the everyday obstacles they face, employment is always near the top of the list of unrealised or unrealisable rights. Moreover, the simple fact that persons with disabilities, precisely because of their disability, are from the outset destined to a higher degree of poverty than other groups of citizens is often ignored, alongside

their right to work and employment.<sup>56</sup> In fact, not merely individuals with disabilities, but their entire families can and do fall into poverty, without any recognition of this situation by the authorities.

With regard to this key issue, the following articles of the Convention are directly being violated:

- **12. Equality before the law,**
- **27. Employment, and**
- **28. An appropriate standard of living and social protection,**

as are the following articles of the Convention indirectly:

- **5. Equality and non-discrimination,**
- **9. Accessibility,**
- **24. Education,**
- **25. Healthcare, and**
- **26. Habilitation and rehabilitation.**

Regardless of the initial intention, as expressed in various laws and other regulations, in practice individuals with disabilities, particularly those with severe disabilities are not in a position to get employment on the open market, which effectively violates article 27 of the Convention. As an example, one may note that the blind are no longer being employed on the open labour market, even in jobs which were traditionally theirs (for example, 20 years ago, all the municipalities in Sarajevo and Banja Luka hired blind people as operators at their central telephone exchanges, but this is no longer regular practice).

A system is envisaged in both entities of quotas for employing persons with disabilities on the open labour market, although there are certain differences in their reach: in the RS, quota system obligations only apply to public institutions and companies, while in the FBiH, the system applies to all forms of business, including the private sector, with more than 16 workers. It is also envisaged that failure to comply will result in the employer being required to make payments into funds for professional rehabilitation to stimulate rehabilitation and employment of PwDs.<sup>57</sup>

Certain problems have arisen with implementation of these measures, reflecting a lack of clear definition of “person with disabilities,” precise record-keeping on the employment of persons with disabilities, and a lack of clarity as to which government institutions are tasked with supervising compliance.

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<sup>56</sup> UNDP/IBHI Human Development Report on Social Inclusion, 2003

<sup>57</sup> *Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju invalida RS (Official Gazette of the RS, no. 54/09), Zakon o profesionalnoj rehabilitaciji, osposobljavanju i zapošljavanju osoba s invaliditetom FBiH, 2010, Zakon o radu (Official Gazette of Brčko District, nos. 19/06, 19/07, 25/08), Zakon o zapošljavanju i pravima za vrijeme nezaposlenosti (Official Gazette of Brčko District, nos. 33/04, 19/07, 25/08), Zakon o zaštiti na radu Brčko Distrikta (Official Gazette of Brčko District, nos. 31/05, 35/05)*



One source of certain difficulties for the employment of persons with disabilities in the FBiH is the requirement of a “good health certificate” as a condition for establishing a relationship of employment, which allows medical staff and employers a certain freedom in interpreting and, not infrequently, violating article 12 of the Convention.

While there are provisions in principle in both entities’ laws on employment which give priority to the employment of individuals with more severe degrees of disability, they require more detailed regulation themselves and have not produced a more significant degree of employment of such individuals.

Out of the 100 respondents/interviewees, 48 cited experiences related to work and employment, while 56 were in fact unemployed and only 19 in employment. The following citations referred to difficulty exercising the right to work, discrimination in the workplace and poor adaptation of the workplace.<sup>58</sup>

“I have had a whole heap of problems at work, and I still have them today. Starting from discrimination, as an individual with a disability, whom they basically look on as some form of lower species. They automatically take that type of attitude towards you, regardless of what you know, what you’re worth, and what you can do. They absolutely do not look at that, all they see is that you’re a person with a disability, and so they set you off to one side, and don’t want to give you any sort of chance to show what you can do and whether you really can do it. With all the rest, I have had that problem and I still have it today.” (Male, Bijeljina, age 41-55).

“Well, I have found myself in the sort of situation where, let’s say, a former financial manager told me directly to my face: “Why should I care that you’re like that, what’s it to me...!?” It’s a massive problem and it’s very difficult at such a moment to keep a lid on it, mentally, as an individual. But then new management came and has given me, at the moment, new responsibilities and authority. Mind you, I’m still working as a qualified craftsperson and not a graduate, which is what I am.” (Male, Bijeljina, age 41-55).

*Interviewer:* Can you remember and events during the past five years. When you have been left out or others have behaved badly towards you, or have not allowed you to participate because of your disability?

*Interviewee:* After I finished primary school, I applied for a lot of jobs, and when I mentioned I had a disability, they would reject the application automatically, even though I know a foreign language and am fit for work. As a result, I’m now unemployed and am not in position to succeed in this regard.” (Female, Dobož, age 18-25).

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<sup>58</sup>MyRight Izvještaj o individualnim iskustvima, p. 41-42

The *Initial Report* does not give any sort of review of the employment status of persons with disabilities in Bosnia and Herzegovina, nor does it envisage any increase in their employment. Other than glancing at the legislative framework, it merely mentions some positive steps which, again, have been made solely by disabled persons' organisations exclusively on the basis of help from international donors. By not offering the fundamental right to work to its citizens with disabilities, the state of Bosnia and Herzegovina is in direct violation of article 27 of the Convention.

Persons with disabilities are, by the nature of their health status, considerably more subject to a need for regular health checks, controls and other forms of health services. Many of them are still subject to a requirement to pay partially for health services, so that such costs represent an additional burden on their budget and increases their risk of poverty.

"When I had to go for radiation therapy, I had to borrow 300 marks for the trip there and back. I had to borrow it, because I couldn't go by bus, I had to go by taxi. And then I had to go for radiation therapy a second time, which meant that I had to borrow the money twice." (Female, Bijeljina, age 26-40).<sup>59</sup>

"It happens, they didn't want to accept my medical card, because it should have been extended the day before. It was an emergency, an ulcer had burst. In that particular healthcare institution, they insisted that the card had to be stamped, and while that was being done, I could have died of the consequences of the attack." (Female, Tuzla, age 56-0).<sup>60</sup>

Many individuals with disabilities are completely dependent, because of their inability to find employment, on their income from budgetary resources (disability benefit) for their everyday survival. There are many situations in which their carer's allowance or disability allowance represents the entire income on which they and even their entire families survive. This is a direct consequence of the state's failure to set a minimum income. As things stand, resources intended to ensure equality of opportunity to function within society are being used by persons with disabilities simply to survive.

"When I went to the board in Sarajevo, they reduced my disability benefit, which I'm rather cut up about, as it means that individuals with disabilities have no support at all, certainly not close to what they should have." (Female, Mostar, age 18-25).<sup>61</sup>

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<sup>59</sup> Ibid, p. 31

<sup>60</sup> Ibid, p. 31

<sup>61</sup> Ibid, p. 36

“I have no income at all. At one stage I was receiving about 100 marks or so, but then that was cut and I don’t have it anymore, even though I’m 80% disabled.” (Female, Tuzla, age 56-70).<sup>62</sup>

Individuals with disabilities incur additional costs, since even when they do receive a carer’s allowance, it is not sufficient to secure them adequate and appropriate assistance. The allowance varies from a minimal 160 KM in the RS to 390 KM in the FBiH, which is just about enough to engage someone for 2 to 3 weeks full-time to look after a child. Once they realise the assistance is for a child or adult with a disability, however, any potential assistant will expect rather more, if not fully double. The standard daily wage for a person with disability allocated under projects by DPOs or international projects ranges between 20 and 40 KM, which would render the monthly amount for regular care and assistance nearly 3 times more they can afford.<sup>63</sup>

“I lived alone renting... So, I had no assistance in choosing clothes and matching colours, and that is one of the shortcomings with which all blind people live.” (Female, Sarajevo, age 18-25).<sup>64</sup>

“Well, I did need the service. I needed them all, because I couldn’t do anything... I couldn’t go to the toilet alone, I couldn’t bathe myself... During one fall, I broke an arm and I had strong pains, everything hurt, and I needed help. (Male, Bijeljina, age 56-70).<sup>65</sup>

A further problem for people with disabilities in Bosnia and Herzegovina is that the responsible state level institutions are not obliged by law to develop programmes of social housing and assisted housing, which places people with disabilities in a situation where they may not be able to secure for themselves appropriate living conditions and so form their own families.

No allocations are envisaged to support individuals with disabilities who incur additional costs because of their disability, that is to say, have to spend more on clothes and shoes, on gloves for example because of wheelchair use or on additional equipment to use their wheelchairs under cold or wet weather conditions, etc.

There are no programmes to support the families of persons with disabilities, who face an additional burden because of the absence of appropriate state services, and therefore have to provide services themselves (for example, a member of the family may have to stop working or looking for work, because they are providing care and support to the family member with a disability). In this way, the total income of the family is reduced, which affects their collective

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<sup>62</sup> Ibid, p. 36

<sup>63</sup> Projekat u oblasti invalidnosti BiH 2006-2009

<sup>64</sup> MyRight Istraživanje o individualnim iskustvima, p. 36

<sup>65</sup> Ibid, p. 37

living standard, which is in violation of article 23 of the Convention, paragraph 5, and article 28, paragraphs 1 and 2c.

The *Initial Report* does not mention or envisage any form of support services for the families of persons with disabilities, simply noting that such services tend to be provided in Bosnia and Herzegovina by non-governmental organisations. Given the continuous tendency to reduce the resources available to disabled persons' organisations and the absence of any such services by social work centres or other public institutions (family counselling centres, centres for mental health, etc.), Bosnia and Herzegovina is in direct violation of articles 23 and 28 of the Convention.<sup>66</sup>

### ***Recommendations to reduce the poverty of PwDs and their families:***

- Set a legal minimum income for persons with disabilities in both entities, taking into account the additional costs they and their families incur because of the disability;
- Legislate clearly that social protection and welfare entitlements, their scope and scale and the manner in which they are claimed must be administered according to the same criteria for all persons with disabilities, regardless of where they live or how and when their disability came about;
- Distinguish clearly in the entity-level laws in both entities between spending on social security and spending on support services for persons with disabilities to ensure equality of opportunity;
- Legislate for the establishment of a system of support services for the personal mobility, everyday functioning, and social inclusion of persons with disabilities, identifying clear sources of funding;
- Stipulate clearly in the entity labour laws of both the FBiH and RS that health status cannot be considered in employing persons with disabilities, so long as they are professionally qualified for the job in question;
- Clearly stipulate in the entity laws on professional rehabilitation, training and employment the criteria and mechanisms, including additional incentives, for employing individuals with severe disabilities;
- Develop an institutional system of rehabilitation and professional rehabilitation in both entities based on the same principles, to be financed out of the budgets of state-level institutions and funds;

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<sup>66</sup> Funding for DPOs has gone down since 2008 by about 15 percent each year, while funding for 2011 was almost half that for 2010. Support to DPOs in 2011 was equivalent to 0.004 percent of GDP. Source: Centre for Investigative Journalism, *Database on funding for non-profits and public bodies*, <http://database.cin.ba/finansiranjeudruzenja/>

- Introduce reform of the disability pension insurance system, so as to incorporate the rights of persons with disabilities on the basis of their disability;
- Stipulate in entity-level law the requirement that local authorities develop social housing and community housing programmes for individuals with disabilities and plan accordingly in their budgets;
- Work on raising awareness of the importance of employment for persons with disabilities as equal members of society.

## 4.5 Discrimination by government employees

Individuals with disabilities meet with prejudices regarding their conditions, appearance, speech, and behaviour on a daily basis. In newly democratic societies like Bosnia and Herzegovina, where work has only recently begun to raise awareness regarding the rights of individuals with disabilities and the fight has only recently been launched against stereotypes regarding them, such prejudices abound in everyday life: in the park, on the street, on public transport...

Such attitudes and prejudices should not be acceptable behaviour in public institutions and services. Those employed in both the private and public sectors are required to offer equal services without discrimination on any basis. Unfortunately, in Bosnia and Herzegovina this is not the case. Individuals with disabilities not infrequently encounter stereotypical behaviour on the part of those providing public services, no less than amongst people they meet in the street.

Under this heading, the following articles of the Convention are being directly violated:

- **6. Women with disabilities,**
- **7. Children with disabilities,**
- **8. Awareness raising,**
- **9. Accessibility,**
- **12. Equality before the law,**
- **13. Access to justice,**
- **17. Protection of the integrity of the person,**
- **22. Respect for privacy,**
- **24. Education,**
- **25. Healthcare,**
- **26. Habilitation and rehabilitation,**
- **27. Employment, and**
- **28. An appropriate standard of living and social protection.**

There are no programmes to train staff to work with people with disabilities for those employed in education, health, social protection and public administration, which puts Bosnia and Herzegovina in direct violation of article 8 of the Convention.

Nor are there any effective measures to prevent discrimination, even in the laws in which discrimination on the basis of disability is directly forbidden, with the result that discrimination against persons with disabilities takes place every day.<sup>67</sup> Because of the low level of awareness amongst persons with disabilities themselves and the ineffective nature of the mechanisms to prevent or sanction discrimination, not to mention underdeveloped capacity on the part of disabled persons' organisations, very few court cases have been taken to tackle discrimination against individuals with disabilities.

Within the framework of the monitoring of individual experiences, the interviewees had an opportunity during the interviews to express their opinions regarding the causes or sources of discrimination against people with disabilities. Most identified causes of a legal character – 13 of the male and 18 of the female interviewees (21 overall) said that in fact legal causes of discrimination are what create the major forms of discrimination they experience. From this we may conclude that the most common systemic cause of discrimination is legal in origin. This means that, regardless of their gender or age or the region in which they live, they all face problems due to a lack of appropriate legislation and its application to implement, promote and further human rights, which is of exceptional importance for their day-to-day survival. This, along with the fact that a smaller number stressed access to justice, does indicate that people with disabilities expect the state and its representatives of all levels of government to facilitate their enjoyment and exercise of their rights through legal arrangements and through programmes and by budgeting properly for them, and not that they should have to fight for their guaranteed rights in court and in other institutions. In saying all this, one must keep in mind the difficult economic situation. The systemic causes of discrimination experienced by the respondents on the basis of their disabilities nonetheless presuppose certain social, political and economic factors. These themes presuppose three types of cause: economic, social and legal.

Each of the individual stories which follows could have given rise to a case against a government authority, if not in court, at least in front of the ethical committees of the responsible and relevant institutions.

"I go to the doctors and they don't understand me... I ask them to talk slowly, because I lip-read, but they don't have the patience or they turn round or they drop their heads and continue to talk in their own way. Then I ask them to write it down on paper for me, but they won't do that, they don't have the patience for it. I always expect this... The worst

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<sup>67</sup> *Odluka o standardima i normativima zdravstvene zaštite iz obaveznog zdravstvenog osiguranja (Official Gazette of the FBiH, nos. 5/03, 18/04,57/07, 53/08), Pravilnik o dodatnoj edukaciji iz obiteljske medicine (Official Gazette of the FBiH, no. 1/03)*

thing to happen to me so far is when I went to a neurologist, complaining about some pains, that I had headaches, and was sent to a psychiatrist. They gave me some tablets as though I had some nervous problems, they thought I was crazy. I told them I wasn't crazy, that I had problems with migraines for which I needed some medicine, but they prescribed me something else... Each time I have a problem, I go to the doctor, and they are there just for a couple of minutes and that's it... The doctors simply don't have the patience to explain to me..." (Female, Sarajevo, age 41-55).<sup>68</sup>

"I remember something that happened 3 to 4 years ago. It was an appointment with the doctor, a specialist in physical medicine, who said, when we put in a request to rehabilitation, that it was for younger children and that, as I was 27 years old at the time, I fell into a different category." (Female, Doboj, age 26-40).<sup>69</sup>

"That's what it's like in medicine, where the doctor addresses the person I've come with, and not me, and always with a sort of pitying manner, but with awareness raising and publicity public attitudes are changing, just it's slow." (Male, Sarajevo, age 41-55).<sup>70</sup>

"When I was with the physiatrist, and I described my condition, and said I wanted to go for physical therapy, she replied that at the time there weren't enough places and that I would have my turn in six months. She added that in the time she had had to dedicate to examining a single disabled person, she could have examined five healthy people. I was insulted, as it's not a nice feeling when somebody says something like that, particularly when that person is a doctor." (Male, Doboj, age 18-25).<sup>71</sup>

"Everyone knows that there are signs up in healthcare institutions saying that the disabled have priority, but that's not how it is in practice." (Male, Bijeljina, age 41-55).<sup>72</sup>

There are no training programmes for medical and paramedical staff on how to work with individuals with disabilities, as clearly illustrated by the above examples of individual experiences. Mention is made in the *Initial Report*, in the section dealing with awareness raising, only of activities organised by organisations for or of persons with disabilities and of a single media campaign by the responsible ministry, from two years ago, with the result that Bosnia and Herzegovina is in direct violation of article 8 of the Convention.

People with disabilities who come from the LGBT population suffer multiple discrimination in this area, as there is generally no sensibility or understanding towards LGBT individuals in society, which leads to a lack of respect for their rights both as LGBT persons and as individuals with

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<sup>68</sup> Ibid, p. 31

<sup>69</sup> Ibid, p. 31

<sup>70</sup> Ibid, p. 31

<sup>71</sup> Ibid, p. 31

<sup>72</sup> Ibid.,p. 31

disabilities. The families of persons with disabilities are not treated as part of the disability movement, nor as clients of the services for individuals with disabilities. For example, the police do not accord the family members of individuals with disabilities the right to certain privileges, like parking in parking spaces reserved for cars bearing the “Disabled Person Category I” sign. The police do not consider this privilege as relating to the entire family, but only to the car when a person with a disability is in it. This is diametrically opposed to the purpose of such privileges, since, when family members are shopping at the market or paying bills, they are doing it for the benefit of the family member who has a disability.

### ***Recommendations on government employees :***

The following recommendations are made with a view to eliminating the day-to-day discrimination persons with disabilities experience at the hands of government employees providing public services:

- Explicitly define and forbid discrimination on the basis of disability in the Anti-Discrimination Law and any other laws that treat discrimination;
- Take active measures to raise the awareness and develop the other capacities of individuals with disabilities and of their organisations, with a view to promoting antidiscrimination mechanisms as tools for securing the exercise of their declared rights and freedoms;
- Include a mandatory element on the rights of persons with disabilities and preventing discrimination against them and their families (bearing in mind all relevant differences in terms of age, gender, sexual orientation, etc.) in all training programmes at public institutions, on the basis of joint work with disabled persons organisations;
- Incorporate activities designed to raise social awareness of persons with disabilities, including their own self-awareness, into all strategies and action plans developed by state-level institutions and allocate funding for such activities.



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## **ANNEX I – List of Disabled Persons' Organisations that participated in drafting the report<sup>73</sup>**

### The Doboj Coalition

1. The Doboj Region Association of Persons with Paraplegia, Polio and Other Physical Disabilities
2. The Doboj Cystic Fibrosis Association
3. The Teslić Municipal Association of Blind and Visually Impaired Persons
4. OKI: The Doboj Handball Club for Disabled Persons
5. The Doboj Amputee Association
6. The Doboj Sporting and Recreational League for Persons with Disabilities
7. The Doboj Association for Civil Victims of the War
8. The Doboj Civil Society Development Centre
9. The Doboj South Association of Persons with Paraplegia and Polio
10. The Teslić Cystic Fibrosis Association
11. The Doboj Special Needs Children Association
12. The Doboj Inter-municipal Organisation of the Blind and Visually Impaired
13. Hope Doboj: A Mutual Reliance Association for Individuals in Spiritual Crisis and their Families
14. The Doboj East Disabled Persons' Association

These organisations together form the Doboj Coalition of Disabled Persons' Organisations, along with a further four organisations from Doboj South (1), Teslić (2) and Doboj East (1).

### The KOLOSI-BN Coalition from Bijeljina

1. The Bijeljina Region Amputee Association
2. The GEA Association of Breast Cancer Survivors
3. OKI – Semberija in Bijeljina
4. CIŽR – The Association of Civil Victims of the War in Bijeljina
5. The ARTA Humanitarian Women's Association in Bijeljina
6. HOPE – An Association to Assist Mentally Retarded Individuals in Bijeljina
7. IMPULS – An Association of Women with Disabilities, Bijeljina
8. KKK Bijeljina – The Wheelchair Basketball Club
9. The Bijeljina Blind and Visually Impaired Association
10. The Bijeljina Region Deaf and Hearing Impaired Association
11. The Bijeljina Association of Persons with Paraplegia, Polio and Other Disabilities

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<sup>73</sup>MyRight Izvještaj o individualnim iskustivima, pp. 8-17

12. The EAGLE Disabled War Veterans Gun Club in Bijeljina
13. The Lopara Municipality Association of Persons with Paraplegia, Polio and Other Chronic Disabilities

#### The Tuzla Coalition

1. The Sapna Disabled Persons Association
2. The Tuzla Canton Phoenix: Citizens' Association to Assist Spiritual Distress
3. The Tuzla Canton Muscular Dystrophy Association
4. The Tuzla Association of Citizens with Visual Impairment
5. The Lotus Citizens' Association and Information Centre for Persons with Disabilities
6. The Tuzla Canton Citizens' Association of "Mothers of Handicapped Children"
7. The Lotuses: An Association and Humanitarian Organisation for Women with Disabilities
8. The Tuzla Canton Civil Victims of the War Association
9. The Lukavac Paraplegia Association
10. The Srebrenik Category I and II Disabled Persons and Pensioners Association
11. The Gradačac Disabled Persons Association

#### The Stronger Together Coalition of Hercegovina Neretva canton

1. The Rose Garden-Los Rosalesa Youth Association, Mostar
2. The "Encounter" Society, Čitluk
3. The "Afriel" Humanitarian Society, Čitluk
4. The Children of Hope Society from Prozor-Rama
5. The Flower Humanitarian Association, Čapljina
6. The Hearing Society for the Deaf and Hearing Impaired, Mostar
7. The "I" Association, Konjic
8. The Sun Association, Mostar
9. The HN Canton Paraplegia Association
10. The Mostar Down Syndrome Society
11. The Konjic and Jablanica Blind and Visually Impaired Association
12. The Mostar Industrial Disability Association
13. The Our kids-Naša djeca Foundation, Mostar

#### The Steering Committee for the Sarajevo Canton Coalition of Disabled Persons' Organisations

1. The Oaza Association
2. The Sarajevo Canton Union of Civil Victims of the War
3. The Sarajevo Canton Association of Persons with Paraplegia and Polio
4. The Sarajevo Canton Cerebral Palsy Association
5. The Sarajevo Canton Multiple Sclerosis Association

6. The Sarajevo Canton Industrial Disability Association
7. The Sarajevo Canton Deaf and Hearing Impaired Association
8. The Sarajevo Canton Blind Association
9. The Sarajevo Canton Polio, Brain Damage and Spina Bifida Association
10. The Sarajevo Canton Cystic Fibrosis Association

## ANNEX II – Breakdown of the interviewee sample<sup>74</sup>

ATTRIBUTE	NO. OF PARTICIPANTS	ATTRIBUTE	NO. OF PARTICIPANTS
<b>AGE BRACKET</b>		<b>RESIDENTIAL STATUS</b>	
18 – 25	15	Home owner	48
26 – 40	36	Renting	6
41 – 55	33	With parents	41
56 – 70	15	Social housing	3
Over 70	1	Indeterminate	2
<b>EMPLOYMENT STATUS</b>		<b>TYPE OF DISABILITY</b>	
Employed	19	Physical disability	66
Unemployed	56	Visual impairment	13
Supported	1	Hearing impairment	5
Personal pension	2	Intellectual disability	3
Disability pension	20	Psycho-social disability	3
Family pension	2	Multiple disability	10
<b>HIGHEST LEVEL OF EDUCATION ATTAINED</b>		<b>DISABILITY BENEFIT</b>	
Indeterminate	27	Carer's allowance	25
Primary	2	Disability allowance	25
Special primary	0	Both	8
Secondary	46	Orthopaedic aid	2
Special secondary	10	Carer's allowance and orthopaedic aid	3
Vocational College	4	All three	9
University	7	None	24
None	4	Indeterminate	4
<b>TOWN</b>		<b>GENDER</b>	
Bijeljina	20	Female	43
Doboj	20	Male	57
Mostar	19		
Sarajevo	21		
Tuzla	20		

<sup>74</sup> MyRight Izveštaj o individualnim iskustivima, p. 18

## ANNEX III – Monitoring methodology

### Monitoring PwDs<sup>175</sup>

Guided by the international watchword of persons with disabilities, “Nothing about Us without Us” and following the guidelines developed by the DRPI, representatives of disabled persons’ organisations from five coalitions of such organisations selected members to take a seven-day training course during which they received instruction and on how to conduct monitoring.

Three of the coalitions are active within three of the Cantons of the Federation of Bosnia-Herzegovina: Tuzla Canton, Sarajevo Canton and Herzegovina Neretva Canton. The Kolosi BN Coalition from Bijeljina covers the region comprising Bijeljina, Ugljevik, Lopare and Zvornik municipalities, which lie within the RS, while the Doboj Coalition is active on the territories of Doboj and Teslić in the RS and of Doboj South in Zenica Doboj Canton and Doboj East in Tuzla Canton in the FBiH.<sup>76</sup>

The monitoring of individual experiences lasted five months and was conducted by 25 individuals with disabilities. The overall process was supervised and coordinated by five field coordinators (one for each coalition): Adisa Begović, Jasminko Bijelić, Milorad Jović, Jelena Mišić and Jasna Rebac. They were responsible for the logistical and administrative tasks required to organise interviews, to select individuals to be monitored, to select assistants, to organise transport, and for any adaptive arrangements required for interviewing or reporting.

A total of 100 interviews were carried out with individuals with various forms of disability in our five areas (Bijeljina, Doboj, Mostar, Sarajevo, and Tuzla). The interviews were conducted with interviewees/respondents recommended by the disabled persons’ organisations active in a given area. In areas where no disabled persons’ organisations were registered, the “avalanche” technique was used, whereby the initial interviewee would propose the next.

Interviews lasted up to 2 hours, being relatively exhaustive and conducted strictly according to the guidelines of the DRPI methodology, to which monitors were introduced during their training, which was organised by the Centre for Society Orientation at the beginning of the project. In their conversation with the interviewees, the monitors attempted to put them at their ease, creating a relaxed and trusting atmosphere, in order to encourage open conversation on the part of the interviewees regarding their living conditions. Interviewees were encouraged to cite up to 3 different experiences in each area of life, whether positive or negative or both. The questions related to 8 aspects of their lives: privacy and family life, work, income and support, education, information and communications, healthcare, habilitation and rehabilitation, social

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<sup>75</sup> MyRight Izvještaj o monitoringu individualnih iskustava, pp. 7-18

<sup>76</sup> See: Annex I



inclusion/participation and access to justice. There were also asked to indicate what they thought were likely causes of discrimination against persons with disabilities, reasons why such discrimination is not always reported, and to give recommendations as to how to improve the lives of persons with disabilities and their conditions.

The sample of 100 interviewees had the following gender balance: 57 men and 43 women. Most were middle aged: 36 belonged to the 26-40 age bracket, while 33 were in the 41 to 55 age bracket, and 15 each belonged to the 18 to 25 and 56 to 70 age brackets. Only one individual was more than 70 years old. 46 of the respondents had completed secondary school, 10 a special secondary school, four vocational college, and seven had university degrees. Only 19 of the interviewees were in employment. Physical disability was most common (66 individuals), because of the various forms of physical disabilities taken into account while choosing the sample: individuals with paraplegia, dystrophy, an amputated body part, spinal injuries, or other forms of physical disability. There were 13 blind or sight-impaired individuals, nine individuals with multiple disabilities (individuals with both a physical and a sensory impairment or a physical disability in combination with a psychic disorder), five deaf or hearing-impaired individuals, three with intellectual disabilities, and three with psycho-social disabilities. Twenty one came from the Sarajevo region, 20 each from the Bijeljina, Tuzla, and Dobož regions and 19 from Mostar.<sup>77</sup>

Following the interviews, the text was typed out by the field coordinators in each region and then forwarded to the data analysts who entered the data from all the interviews into the Nvivo software, purposely designed for high quality data processing. Three data analysts, Ira Adilagić, Elmedin Lelo and Vedran Stanić, read the interviews in pairs and in shifts and coded the life experiences from the interviews as positive or negative with regard to five principles of human rights, based on their disability and on the guidelines worked out in the context of the DRPI project.

The individuals who conducted the monitoring and analysis were also individuals with disabilities, giving added weight to the significance of the report. This is the first time that a report or an entire monitoring process has been conducted in this way in Bosnia and Herzegovina—that is conducted by individuals with disabilities for individuals with disabilities.

The monitors and coordinators were: Irfan Kulić, Melita Čano, Amra Trgo, Dževad Kamber, Hamida Čomor, Adisa Pamuk, field coordinator, Tima Music, Alija Muratović, Enisa Bratović, Jasminko Bijelić, field coordinator, Nermina Omerovic, Brankica Jokić, Gordana Stupar, Zorica Marković, Mladenka Mihajlović, Boris Cvjetković, Gojko Šurbat, Milorad Jović, field coordinator, Predrag Radojčić, Ljiljana Jelisić, Gradimir Kragić, Edib Skulić, Milenko Tripunović, Elma Dandić,

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<sup>77</sup> One interview from Mostar was voided because of the poverty of the data. It was replaced by an additional one from Sarajevo. For a fuller description of the breakdown of respondents, see Annex II

Jelena Mišić, field coordinator Tatjana Kosak, Almir Jahić, Ivan Primorac, and Jasna Rebac, field coordinator.

## **System monitoring – Systematic measures taken to protect and promote the rights of persons with disabilities<sup>78</sup>**

As their starting point in the analysis of the human rights of persons with disabilities in Bosnia and Herzegovina, the system monitors used the *UN Convention on the Rights of Persons with Disabilities*, as well as other relevant international documents in the area of human rights<sup>79</sup>, the *Constitution of BiH*, the *entity constitutions of the FBiH and the RS*, and the *Constitution of Brčko District*, legislation passed at state, entity and District levels and policies and strategies related to disability.

In their information gathering and assessment of activities to protect, promote and respect the human rights of persons with disabilities, as well as in their reporting and monitoring information related to the protection afforded persons with disabilities in legislation, policies and programmes, the monitors used the DRPI template. Their intention in following the template was to identify critical gaps and lacks in the legislation and political frameworks governing the protection and promotion of the human rights of persons with disabilities in Bosnia and Herzegovina and to draw attention to them, as well as to assess current laws, policies and programmes and the degree to which individuals with disabilities can exercise their rights in practice.

Since the DRPI template comprises 44 questions to be completed according to the established methodology, all laws and regulations, policies, programmes and action plans related to the key areas of economic and social life in which persons with disabilities exercise their human rights were subjected to analysis, in addition to the constitutions themselves. The methodology according to which the monitoring and reporting was to be realised was quite a demanding one and in the opinion of the monitors themselves more applicable to states with simpler, more centralised structures. The process therefore required the analysis and processing of a very large number of laws, regulations, policies and programmes.<sup>80</sup>

Bearing in mind the nature of the authorities of the central institutions of the state of Bosnia and Herzegovina and the entities' role and significance and authorities in setting legal standards, and also given the intention of analysing the degree of harmonisation between the legal system in

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<sup>78</sup> MyRight Izvještaj o monitoringu sistema, pp. 2-5

<sup>79</sup> For the list of 11 international and regional instruments under the DRPI methodology, see *DRPI Law, Rights and Monitoring Template*, pp. 5-6

<sup>80</sup> See section on Context in BiH

Bosnia and Herzegovina and the Convention, it was necessary to work through and analyse approximately 160 laws and other documents of relevance to preparation of the report (regulatory acts, policies, strategy documents, action plans, reports, et cetera) and naturally of relevance to persons with disabilities. Analysis was conducted with regard to all issues of significance for the monitoring process.

The main challenge which the monitors encountered was actually getting their hands on the documents, as well as gathering the other data, since there is no joint registry at either state or entity level of regulations or provisions of relevance to persons with disabilities or to the implementation/application of the Convention.

An additional problem with regard to access to and analysis of documents was the format in which they were available (hardcopy, various electronic formats, the large number of legal amendments, without necessarily a clean revised text, etc.), because two of the three system monitors were blind. The difficulties faced due to this fact was in itself indicative of the situation and the level of access individuals with disabilities have to basic government information.

Following the DRPI methodology for carrying out system monitoring, a system for gathering the relevant international and domestic legal acts was created. Through continuous contact and at regular meetings, the system monitors kept each other up-to-date with the processes for gathering the necessary documents, agreeing the extent to which the legal system should be analysed "in-depth" and which international documents should be taken into account during analysis and in compiling the Report on System Monitoring. The documents actually taken into consideration in compiling the report were those to which Bosnia and Herzegovina has acceded at the level of the UN and documents of relevance for the process of association with the European Union (13 of the more important international documents or instruments were considered in preparing the report).

The monitoring and analysis of the legal system/legislation for the purposes of this project were carried out by three experts who are also activists in the disability movement: Fikret Zuko, Suvad Zahirović and Zoran Dobraš, with additional expertise and technical support provided by Safeta Baković and Rajko Kličković.

## **Media monitoring - Media descriptions and coverage of disability<sup>81</sup>**

For the purposes of this monitoring process, the leading print media in Bosnia and Herzegovina were followed from April to September 2013, processing a total of 224 texts that dealt, directly or indirectly, with the theme of persons with disabilities. Nine daily newspapers, 15 weekly or fortnightly publications and 17 monthly publications were monitored, the aim being to identify

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<sup>81</sup> MyRight Izveštaj o monitoringu medija, pp. 4-7 and 11

the use of more than 50 pre-identified keywords, including phrases used in addressing persons with disabilities. The keywords used in searching the journalistic texts were selected from the *Code on Representing Persons with Disabilities in the Media*, attached to this report, along with a list of the print media.

The author of the report was expected to provide answers to the key questions identified using the DRPI methodology:

- What is the approach taken to reporting on the rights of persons with disabilities?
- How visible is the theme in the media?
- Which publications give most attention to the overall question of persons with disabilities?
- In what section do articles dedicated to persons with disabilities appear?
- Are persons with disabilities a primary source of information for these texts?

The report was thus compiled following a method of combined quantitative and qualitative analysis of the contents of print news publications appearing in Bosnia and Herzegovina and regional editions of media in one or other of the languages of the peoples of Bosnia and Herzegovina edited in a neighbouring country.

It was found that texts dealing with persons with disabilities are most commonly to be found under headings like: “Other News”, “Events”, “News” and “Local News.” There were only four texts published under the headings of “Politics” or “The Economy.”

The simplest form of journalism dominated – news reporting. There were only a few interviews and only one text that could be called reportage. More than half the texts were unsigned and a good few were taken over from news agencies with varying degrees of reworking (dependent on the editorial policy of the individual newspapers). In line with regular editorial practice, rookie journalists were given the less complicated themes and allowed the largest margin of error and room for professional negligence.

The articles reflect the dominance of the social or welfare-oriented approach. Most of these simple reports relate to welfare payments, disability benefits, disability pensions, etc., accounting for close to half the total (91). They were almost exclusively sourced from the relevant official institutions, while they dealt with disabled persons’ organisations only in cases where they were highly dissatisfied with a particular decision by a state authority or body. In quantitative terms, the number of texts that dealt with aspects of human rights was greater, by one (92), but in qualitative terms and in terms of editorial treatment, these texts were considerably less satisfactory than those on the welfare aspects. The media, working together with disabled persons’ organisations, must do more to raise public awareness of the fact that people with disabilities have the same rights as other citizens and that the authorities are under an equal obligation to meet their obligations towards them as well.

## Abbreviations

BiH	Bosnia and Herzegovina
BD	Brčko District, Bosnia and Herzegovina
GDP	Gross domestic product
DRPI	Disability Rights Promotion International
EU	European Union
FBiH	The Federation of BiH
Convention	The UN Convention on the Rights of Persons with disabilities
KM	The Convertible Mark of BiH
LGBT	Persons who are Lesbian, Gay, Bisexual or Transsexual
DPO	Disabled Persons' Organisation
PwD	Persons with disabilities
RS	Republika Srpska
UN	The United Nations
NDC	The National Disability Council
CSO	The Centre for Society Orientation





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