**International Disability Alliance (IDA)**

**Member Organisations:**

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**Suggestions for disability-relevant questions for consideration for the List of Issues, Country report task force**

**Human Rights Committee, 106th Session**

The International Disability Alliance (IDA) has prepared the following suggestions for the list of issues, based on references to persons with disabilities to be found in the State report and references to persons with disabilities by other treaty bodies (see Annex).

**ALBANIA**


**IDA proposed questions for the List of Issues:**

- What steps are being taken to ratify the CRPD and its Optional Protocol?

  Articles 2, 7, 10, 24

- What measures has the State party taken to address the causes and to prevent incidents of ill treatment of children while in State care, and to ensure that children with disabilities are not subjected to institutional violence? (see Concluding Observations of the CRC Committee, **CRC/C/15/Add.249**, 2005, paras 40, 41, in Annex below)

  Articles 2, 7, 9, 26

- What steps are being taken to ensure that all health care and services, provided to persons with disabilities, including all mental health care and services, is based on the free and informed consent of the person concerned, and that involuntary treatment and confinement are not permitted by law in accordance with the CRPD?[^1]

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[^1]: Further, OHCHR Thematic Study on enhancing awareness and understanding of the CRPD, A/HRC/10/48, 26 January 2009, para 49; “Legislation authorizing the institutionalization of persons with disabilities on the grounds of their disability without their free and informed consent must be abolished. This must include the repeal of provisions authorizing institutionalization of persons with disabilities for their care and treatment without their free and informed consent, as well as provisions authorizing the preventive detention of persons with disabilities on grounds such as the likelihood of them posing a danger to themselves or others, in all cases in which such grounds of care, treatment and public security are linked in legislation to an apparent or diagnosed mental illness.” See also OHCHR Information note no 4, “The existence of a disability can in no case justify a deprivation of liberty.” [http://www.ohchr.org/EN/UDHR/Documents/60UDHR/detention_infonote_4.pdf](http://www.ohchr.org/EN/UDHR/Documents/60UDHR/detention_infonote_4.pdf); “The Special Rapporteur notes that the acceptance of involuntary treatment and involuntary confinement runs counter to the provisions of the Convention on the Rights of Persons with Disabilities.” Report of the Special Rapporteur on Torture, 28 July 2008, A/63/175, para 44.)
• What steps are being taken to eliminate the institutionalisation of children and adults with disabilities by building up community based services and support (including through increased social assistance and welfare benefits) to children with disabilities and to their families? (see Concluding Observations of the CRC Committee, CRC/C/15/Add.249, 2005, paras 44, 45, 52, 53, in Annex below)

Articles 3 and 7
• What steps are being taken to address the heightened risk for women and children with disabilities of becoming victims of violence, abuse, and exploitation in the home, community and institutions, and to ensure the accessibility of services and information to victims with disabilities, including training of police and other interlocutors?

Article 16, 25, 26
• What laws and policies are in place to ensure that persons with disabilities enjoy legal capacity on an equal basis with others?
• What steps are being taken to repeal Article 45 of the Constitution and Article 45 of the Electoral Law which exclude people with intellectual or psychosocial disability from voting and standing for election which is in violation of the right to political participation as set out in Article 25, ICCPR and Article 29, CRPD?

What measures are being adopted to ensure the accessibility of polling stations, booths and voting material, including by permitting an individual an assistant of their own choice to help them to vote, without external surveillance? How is information on elections and political campaigns being made accessible in the lead up to elections?

Articles 19, 27
• What steps are being taken to introduce the recognition of sign language as an official language? What measures are being adopted to ensure access to information to persons with disabilities on an equal basis with others?

State report

Selected disability references in the state report:

67. The Law stresses that it should not be qualified as discrimination on the grounds of gender, when the State adopts specific measures, including legal provisions, which are aimed at the following:
   (b) Facilitating assistance for persons who hold special family responsibility related to the daily care of disabled family members, on the account of age, physical or mental disability or other disability.

Prohibition of medical or scientific experimentation without the free consent of the individual

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2 Article 45(2) of the Constitution states, "citizens who have been declared mentally incompetent by a final court decision do not have the right to elect."

Article 45(2) of the Electoral Law states, “Citizens declared by final court decision to lack the capacity to act are excluded from the right to vote.”

3 This is confirmed in OHCHR thematic study on participation in political and public life by persons with disabilities which explicitly states that there is no reasonable restriction nor exclusion permitted regarding the right to political participation of persons with disabilities, A/HRC/19/36, 21 December 2011.
171. The Code of Medical Ethics and Deontology (articles 46, 47) foresee the prohibition of making experiments on persons without their prior consent. Likewise, they specify that when the person going through an experiment is unable to give his own consent, then such an experiment cannot take place without the consent of his relatives. But this could occur only when the doctor who takes over such a research work with preventive, diagnostic and curing purposes submits the research working plan before a relevant, competent and independent commission concerning his scientific preventive presentation, which should inform carefully the people concerned over the research work projects, on both the possible benefits and damages. Therefore, the application of these methods is possible only after the project examination and approval.

172. Detailed information on the measures taken in the field of mental health is provided in the Second Report against Torture CAT/C/ALB/2, namely in the comments on Article 16, paragraphs 231–243.

213. A program for convicted children has been worked out which is based on the needs, abilities and skills, capacities and health and psychological state of children in order to facilitate the process of their social rehabilitation through their participation in education activities, professional formation, sportive and cultural activities, etc. A rigorous daily program is applied for the children which aims at providing them with habits of the life in community, increasing their self valuation and taking on responsibilities, respecting rules, getting familiar with their rights and responsibilities, encouraging their abilities and skills in different fields, etc.

214. House of Special Care is stipulated in Article 16 of Law 8328/1998. Special medical institutions or special sections at prisons or hospitals outside prison system are serving for the remedy of sick convicts or for those who suffer from mental illness or psychical disorders. The holding of these persons in these institutions and sections may be specified since the beginning when the decision for the punishment is made or during the time when the convict is serving the sentence, with the consent of the prosecutor and in case of emergencies, with the consent of the director of the prison where the convict is serving the sentence, who will inform immediately the prosecution office. The leave of these institutions is made upon the proposal of the institution manager and with the approval of the prosecutor. Entering this institution or its refusal, leaving this institution or refusing the leave, the convict and his defender or caretaker have the right to claim to the court within five days from the date getting information. Institutions and sections for health remedy respect all the rights of convicted persons according to law to the extent that they are applicable in hospitalization conditions. The Minister of Justice and the Minister of Health, under their common orders, determine the way how this law is executed there. Upon the order of the prosecutor, these institutions may receive convicted persons whose occupations are related to medicine or to other necessary fields, while there is no legal obstacle according to this law. The law court decides for holding these convicts in such institutions for the cases specified in the Code of Penal Procedures. In these institutions, with the recommendation of prison medical service or of other medical institutions, imprisoned persons are transferred on the order of the prosecutor. The leave or holding the convicted persons in such institutions is approved by the organ that has decided the execution of the decision in the institute.

241. Article 49 of the CPP prescribes provision of the defense on the initiate of proceeding organs themselves. According to the first paragraph of this article, the defendant who has not obtained the defense or has remained without it is assisted by an advocate appointed by the proceeding organ, if required by him/her. For special cases, Article 49, paragraph 2, of the Code of Penal Procedures (CPP) specifies that the defense is provided to the defendant in spite of his/her will when he/she is under the age of 18 years, or has mental illness or psychological disorders and has not obtained the defense or has remained without it. While the defendant is not able to protect himself/herself because of old age or health condition, the provision of defense by proceeding organs is obligatory.
Advocates who provide legal defense for the defendant in compliance with requirements specified under Articles 6 and 49 of the Code of Penal Procedures are selected from the list made available to proceeding organs by the Steering Committee of Advocate Chamber according to criteria specified for each of them in this list (Articles 49, paragraph 3). Concerning the costs for the defense of the defendant, paragraph 7 in Article 49 states that if the defendant has not sufficient financial means, the costs incurred for his defense are covered by the state.

449. Legislation, policies and strategies in the field of education intend to assure access to all levels of education, establish a qualitative and comprehended education system, and undertake curricular and restructuring reforms for pre-university education. It has been considered of special significance the provision of optimum education to children belonging to strata in need, to Roma children, to disabled children, giving priority to comprehensive education. In the framework of increasing attendance of basic schools, it has been underlined that, in national level, school abandonment is becoming lower. Registration figures in schools of compulsory education (primary schools) is 89%, while in the higher cycle of compulsory schools is 94%. The attendance level at finishing school and the percentage of children that start the first class and finish the fifth class is 98%.

501. The right to elect and be elected, as one of fundamental rights of political rights and freedoms, is secured firstly by Constitution, Article 45. This provision specifies that all Albanian nationals, who have reached the age of 18, even on the election date, are entitled to vote. The Constitution sanctions that from this right are excluded only those nationals who, under a final court decision, are declared mentally disabled. The convicts, who are serving their sentences in prisons, have only the right to elect. The vote is personal, equal, free and secret.

627. Law no. 9669, dated, 18.12.2006, “On measures against violence in family relations”, revised under law no. 9914, dated 12.5.2008, intends to prevent and reduce violence in the family, in all its forms, by appropriate legal measures as well as to guarantee the protection, by undertaking appropriate legal actions, of the members of the family, who are victims of such violence, paying special attention to children, old age people and disabled persons”. Complying with this law, “violence is considered any action or inaction of a person against another person, which attacks physical, moral, psychological, sexual, social, economic integrity”. Several by-law acts have been passed which have to do with establishment of responsible structures dealing with the issues of family violence.
Harmonization of national legislation
18. The Committee notes the efforts to reconcile the newly enacted gender equality and anti-discrimination laws, legislation previously in force and the Convention, especially in addressing multiple and intersecting forms of discrimination experienced by ethnic minority women, women with disabilities, rural women and other disadvantaged groups of women, and notes the legal basis for imposing sanctions for acts of discrimination.
19. The Committee recommends that the State party monitor the impact of the gender equality and anti-discrimination legislation, identify inconsistencies and address them, as appropriate, with a view to ensuring that the implementation of the legislation is conducive to the effective elimination of discrimination against women, especially women belonging to disadvantaged groups, such as ethnic and linguistic minority women, women with disabilities, older women, women living in rural or remote areas, migrant women, women living with HIV/AIDS and women discriminated against on the grounds of their sexual orientation and gender identity.

Temporary special measures
22. In view of the fact that the legal basis for the introduction of temporary special measures in the former Law on Gender Equality of 2004 was never invoked, the Committee commends the State party for having introduced temporary special measures as foreseen in the Law on Gender Equality in Society of 2008 and in the Electoral Code in the form of quotas, as well as, albeit to a limited extent, in the field of vocational training for unemployed women belonging to the most disadvantaged groups of society. The Committee is concerned, however, about the different approaches to gender quotas in provisions for the general election and local elections, and the differing sanctions for non-compliance with the provisions. The Committee identifies the need for the State party to introduce further temporary special measures in order to achieve de facto or substantive gender equality in all areas covered by the Convention.
23. The Committee calls on the State party to strengthen the use of temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee’s general recommendation No. 25, in areas in which women are underrepresented or disadvantaged, including through the allocation of additional resources where needed, in order to accelerate the achievement of de facto or substantive gender equality in areas covered by the Convention, such as participation in political and public decision-making, including in the civil and diplomatic service, in the judiciary and the executive branch, and in the education and employment sectors. The Committee further recommends that temporary special measures be applied in order to ensure the equality of women and men in accessing property, capital and credits, health-care services, housing and, more generally, all the components of an adequate standard of living, particularly in regard to women belonging to disadvantaged groups, including women and girls belonging to linguistic and ethnic minorities, older women, women with disabilities and women living in rural and remote areas, as authorized by the comprehensive article 8 of the Law on Gender Equality in Society of 2008. The Committee requests the State party to include, in its next periodic report, comprehensive information on the use of such temporary special measures in relation to various provisions of the Convention, and on their impact.

Education
30. The Committee commends the State party for the comprehensive reforms undertaken and the achievements made in the field of education that reflect gender issues, for example in the training of teachers and the review of school curricula and textbooks.
The Committee expresses a number of concerns, however, in relation to the education of girls in rural or remote areas and girls belonging to linguistic or ethnic minorities. Such concerns relate to the high dropout rate from schooling, especially at the secondary level, resulting from early marriages, traditional sex-role stereotypes, lack of means of transportation, secondary costs of education and involvement in economic activities, indicating poverty as a strong predictor. The Committee also expresses concern about the lack of comprehensive data on the rate of enrolment of Roma women and girls, as well as women and girls with disabilities, at all levels of education, which is an impediment for the State party in assessing their situation with a view to improving it. The Committee is also concerned about the low level of representation of women in senior management positions in educational institutions at the primary, secondary and tertiary levels.

31. The Committee recommends that the State party continue raising awareness of the importance of education for the empowerment of women and that it take concrete comprehensive measures to overcome traditional attitudes and other obstacles to the education of girls and women. The Committee especially recommends intensifying efforts to promote the access of girls and women living in rural or remote areas, including minority girls and women, to education and their retention at all levels of education. The Committee calls on the State party to enhance temporary special measures currently in place in the form of quotas, in order to ensure the representation of women in high-level positions in universities and other educational institutions. It requests inclusion, in the next periodic report, of comprehensive data and information on the educational situation and opportunities of disabled women and girls, as well as those belonging to ethnic and linguistic minorities, particularly Roma women and girls.

Concluding Observations of the CRC Committee, CRC/C/15/Add.249, 2005

Non discrimination
23. The Committee welcomes the many legislative amendments providing for equal rights to all children, including giving children equal inheritance rights without discrimination based on their status at birth. However, the Committee is concerned that discrimination persists in particular with respect to ethnic minorities, including Roma children, disabled children and children living in remote areas many of whom have reduced access to support and protection. The Committee regrets the lack of information on the efforts made by the State party to counter these forms of discrimination while noting statements that this is primarily a result of mentality and attitudes rather than lack of related legislation. Furthermore, the Committee regrets the general lack of information related to discrimination against girls.

24. The Committee urges the State party to undertake concerted actions to develop and implement policies aimed at countering the various forms of discrimination in the country. This would include revision of existing legislation, introduction of comprehensive anti-discrimination legislation and conducting educational campaigns to address discrimination against the Roma and other minorities, as well as discrimination on grounds such as disability, sex, birth status or others.

25. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of the Committee’s general comment No. 1 (2001) on the aims of education.

Torture and other cruel, inhuman or degrading treatment or punishment
40. The Committee notes article 25 of the Constitution and the general provisions of the Criminal Procedure Code, according to which torture and degrading treatment or punishment are prohibited. However, the Committee regrets the lack of relevant practical information in the report, and is concerned about allegations of ill treatment and improper
use of force, in particular against children, both by public officials and the police in pre-trial detention centres, in prisons and in other institutions in which children are in the care of the State. Furthermore, the Committee is concerned that these allegations have not been investigated promptly by an independent authority.

41. In light of article 37 (a) of the Convention the State party should take all necessary and effective steps to address the causes and to prevent incidents of ill-treatment of children while in State care, including by adopting a prevention strategy against institutional violence. The Committee further urges the State party to undertake adequate measures to ensure that an effective system is set up for filing complaints about acts of ill treatment and that such acts receive an appropriate response through the judicial process, in order to avoid impunity for the perpetrators.

Children deprived of their family environment

44. The Committee welcomes the programmes of development of social services aimed at the deinstitutionalization of children and the shifting towards decentralized and community based services with a view to improving living standards that are conducive to reintegration. However, the Committee remains concerned that children may be removed from their families because of their health status, or placed in institutions by parents in difficult economic situations.

45. The Committee recommends that the State party:
(a) Take effective measures to strengthen support to families by developing a comprehensive child centred family policy to enable families to care for their children at home;
(b) Improve social assistance and support to families through advice and education to promote positive child parent relationships;
(c) Strengthen efforts in the area of deinstitutionalization ensuring that parallel structures are in place to provide adequate follow up and reintegration support and services for children who leave institutional care;
(d) Establish procedures to ensure that children currently residing in institutions that are being closed down are fully informed and able to participate in deciding on their future placement, and that these children retain their rights to social protection.

Children with disabilities

52. The Committee welcomes the establishment of an inter-ministerial group to develop a National Strategy for Persons with Disabilities, but remains concerned at the large number of children with disabilities who are institutionalized, are not included in the mainstream education system, or are without education at all, and at the general lack of resources and specialized staff for these children. It is also concerned at the prevailing societal attitudes which are conducive to stigmatization of children with disabilities.

53. The Committee encourages the State party to actively pursue its current efforts and continue:
(a) To review existing policies and practices in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96 of 20 December 1993, annex) and of the Committee’s recommendations adopted at its day of general discussion on “The rights of children with disabilities” (see CRC/C/69, paras. 310-339);
(b) To pursue efforts to ensure that children with disabilities may exercise their right to education to the maximum extent possible and facilitate their inclusion in the mainstream education system;
(c) To undertake greater efforts to make available the necessary professional and financial resources, especially at the local level, and to promote and expand community-based rehabilitation programmes, including parent support groups;
(d) To strengthen public awareness campaigns with a view to contributing to changing existing negative attitudes towards children with disabilities;
(e) To consider seeking technical cooperation from UNICEF and the World Health Organization in this respect.

**Standard of living**

58. The Committee notes the efforts that the State party is making to improve the living standards of families in poverty and of children in institutional care, orphans or other children with special needs. However, the Committee is concerned that a large number of children live in poverty, or in extreme poverty, and that many children do not receive child support maintenance following divorce of their parents, or as the case may be, the amount is largely insufficient.

59. The Committee encourages the State party to pursue measures to assist parents and others responsible for children by strengthening efforts to improve the standard of living of all children and providing material assistance and support programmes in accordance with article 27 of the Convention. Economic growth should be used to improve the living conditions of families. In addition, the State party is encouraged to consider ratifying the Hague Conventions No. 23 on the Recognition and Enforcement of Decisions relating to Maintenance Obligations and No. 24 on the Law Applicable to Maintenance Obligations.