International Disability Alliance (IDA)
Member Organisations:

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 submitted to the Human Rights Committee and on concluding observations of other treaty bodies.

Ukraine

Ukraine ratified the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol on 4 February 2010.

IDA proposed questions for the List of Issues:

- What measures are being taken to provide comprehensive information and statistical data on the situation of women with disabilities for targeted policymaking? (see Concluding Observations of the CEDAW Committee, CEDAW/C/UKR/CO/7, 2010, paras 42-43, in Annex below)

Articles 3, 7, 10
- What steps have been taken to address the heightened risk for girls and women with disabilities of becoming victims of violence, abuse and exploitation in the home, community and institutions? What measures are being adopted to ensure sanctions for perpetrators, services (including shelters), information and complaints mechanisms for victims are made accessible to persons with disabilities, including training for police and other interlocutors?
- Has the State started systematic research and data collection on child abuse, including on cases of abuse and neglect in out-of-home care, including special educational and social rehabilitation institutions (see Concluding Observations of the CRC Committee, CRC/C/UKR/CO/3-4, 2011, paras 50-51, in Annex below)

Articles 2, 7, 9, 12, 24, 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
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confinement are not permitted by law in accordance with the CRPD?¹

- What steps are being taken to repeal provisions in the Act No. 1382-IV (in State report paras 134-137) that exclude persons with psychosocial disabilities from choosing their place of residency? What steps are being taken to enforce deinstitutionalisation and the equal right of all persons with disabilities to live in the community, and to ensure that persons with disabilities have the opportunity to choose where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement in accordance with Article 19, CRPD?

- What steps are being taken to build up community based services and support (e.g. increased social assistance and welfare benefits) including by providing sufficient assistance to families to ensure that all persons, including children and adult with disabilities, can live and be raised in family environments in the community? Has the State taken measures to prepare a comprehensive deinstitutionalization plan? (see Concluding Observations of the CRC Committee, CRC/C/UKR/CO/3-4, 2011, paras 44-47, 52, 53, also see Concluding Observations of the CESCR Committee, E/C.12/1/ADD.65, 2001, paras 13 & 30, in Annex below)

Article 14

- What steps are being taken to repeal provisions in the Law of Ukraine On Citizens' Appeals that exclude persons with disabilities from equal access to the courts and tribunals? Further, please provide information on how the Civil Procedure Code of Ukraine, the Administrative Procedure Code, the Criminal Procedure Code, the Code of Administrative Violations ensure the participation of people with disabilities before judicial mechanisms on an equal basis with others.

Articles 16, 19 & 25

- 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 70 in the Constitution, Article 2 in the Electoral Law and Article 6 in the Law On Elections of Deputies of Local Radas, and of Village, Settlement, City Chairmen² which exclude persons with disabilities from voting

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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; “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.)

² Constitution (1996) Article 70 states, “Citizens of the Ukraine who have attained the age of eighteen on the day elections and referendums are held, have the right to vote at the elections and referendums. Citizens deemed by a court to be incompetent do not have the right to vote.” Electoral Law On Elections of People’s Deputies of Ukraine (2005, as amended 2007) Article 2, section 9 states, “A citizen who has been declared incapable by a court decision shall not have the right to vote.” On Elections of Deputies of Local Radas, and of Village, Settlement, City Chairmen (1998, as amended 1999) Article 6, section 3 states, “Citizens of Ukraine found incompetent by a court shall have no right to vote on local elections...”
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?3

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 (e.g. access to web pages, publications in Braille and electronic format, subtitling)?

**State report**

**Select references to persons with disabilities:**

134. Pursuant to that guarantee, Act No. 1382-IV of 11 December 2003 on freedom of movement and choice of place of residence in Ukraine, the Ukrainian citizens, aliens and stateless persons legally present in Ukraine are guaranteed freedom of movement and free choice of place of residence in its territory, with the exception of restrictions established by law. The registration of a person's place of residence or the absence of such registration may not serve as grounds for the exercise of the rights and freedoms stipulated by the Constitution or by the country’s law or by international treaties or for the limitation of such rights and freedoms. Under article 5 of the above Act, the legal basis for residing in the national territory consists in, for Ukrainian citizens, their citizenship and, for aliens and stateless persons, registration in the territory of Ukraine of a passport or possession of a permit of permanent or temporary residence in Ukraine or documents certifying the granting of refugee status or asylum.

135. The Act clearly lists restrictions on freedom of movement and free choice of place of residence. Such restrictions may concern areas or persons. Thus, under articles 12 and 13 of the Act, freedom of movement and free choice of place of residence may be restricted in border areas, in areas with military facilities, in areas characterized as limited access zones under the Act, in areas under martial law or state of emergency, in specific areas or communities subject to special living or economic-activity conditions and regulations because of a risk of propagation of infectious diseases or of intoxication, and in particular areas or cases specified by law. Moreover, freedom of movement and free choice of place of residence are restricted in the case of persons who:

(a) Under procedural law, are subject to preventive measures involving restriction or deprivation of liberty;
(b) Are under administrative surveillance in accordance with the law;
(c) In accordance with legislation on infectious diseases and psychiatric assistance are subject to compulsory hospitalization and treatment;

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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.
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136. Under article 14 of the above Act, the decisions, acts or omissions of State or local government bodies, officials and officers with regard to freedom of movement, free choice of place of residence or registration of a person's place of residence or stay may be challenged according to the procedure established by law.

137. Under the above Act, in order to improve the organization of the registration or deletion of an individual's place of residence or stay in Ukraine and standardize the relevant documents, Ministry of Internal Affairs order No. 96 of 3 February 2006 laid down model rules for the formulation of such documents.

**On paragraph 10 of the concluding observations with regard to protecting children from domestic violence**

243. The protection of the rights and freedoms of the more than eight million children living in the country is a State priority and efforts are made to monitor compliance with those entitlements from the children's birth until they have received an education or secured their first job. Special attention is paid to guaranteeing the rights of such vulnerable children as those placed in child care centres, foster families or special institutions for minors, and children brought up in disadvantaged families.

**Protection of the rights of persons with disabilities**

261. Under article 46 of the Constitution, citizens have the right to social protection, including the right to benefit in cases of complete, partial or temporary disability, the loss of the principal wage earner, unemployment due to circumstances beyond their control and also in old age, and in other cases established by law.

262. The current State social policy is aimed at the realization of constitutional rights related to the social protection of persons faced with difficult living conditions, one of the most vulnerable social groups. One of the State and social support mechanisms for such persons consists in the provision of social services. Persons having significantly lost the ability to look after themselves and to move and who constantly require the assistance of others are admitted to State residential social services institutions.

263. The State system of social services, created as part of the activities of the Ministry of Social Policy, was primarily set up to provide social services to war and labour veterans, pensioners, single elderly citizens and persons with disabilities. Such social services include, inter alia, everyday-life and socio-medical rehabilitation, monetary aid and assistance in kind, and are provided through on extensive network of establishments comprising 324 boarding facilities, 339 residential units, 736 regional centres for social services, 135 establishments for the homeless and persons released from prison and 207 centres for the rehabilitation of persons with disabilities.

264. Under Cabinet of Ministers decision No. 558 of 29 April 2004, unemployed individuals may provide social services to persons who require the assistance of others but for various reasons are not supported by a regional centre for social services. The individuals providing such services receive financial compensation equal to a percentage of the minimum wage. This novel method of making social support available in the immediate vicinity of the persons most in need of such assistance made it possible to organize individualized social services for approximately 90,000 thousand beneficiaries.
ANNEX - References to persons with disabilities by other treaty bodies with respect to Ukraine

Concluding Observations of the CRC Committee, CRC/C/UKR/CO/3-4, 2011

C. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

27. The Committee is concerned at the reported increase in the number of racially motivated offences in the State party, in particular information on xenophobic and racist activities carried out by radical youth groups and skinheads. In this context, the Committee is concerned that “patriotic education” is commonly identified as a priority issue in the allocation of State funds in support of children’s and youth organizations. The Committee is furthermore concerned that the principle of non-discrimination with respect to children with disabilities, children of minority groups (especially Roma children), children in street situations, children living with HIV/AIDS and asylum-seeking and refugee children, is not fully implemented in practice. In this respect, the Committee is concerned at the lack of an express reference to the principle of non-discrimination with respect to the protection of children’s rights in domestic legislation.

28. The Committee urges the State party to ensure that all children in the State party enjoy their rights under the Convention without discrimination on any ground. It further urges the State:

(a) To take effective measures to combat racist and xenophobic activities among youth, including by identifying as priority programmes for State funding in support of children’s and youth organizations those that promote intercultural dialogue, tolerance and respect for diversity;

(b) To strengthen monitoring of the situation of children belonging to the above-mentioned groups and, on this basis, develop a comprehensive strategy containing specific and well-targeted actions aimed at eliminating all forms of discrimination against these and other vulnerable groups of children;

(c) To incorporate in domestic legislation the principle of non-discrimination and the prohibition of discrimination against children on any of the grounds spelled out in article 2 of the Convention.

E. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)

Family environment

44. The Committee is concerned at the high rates of children deprived of their family environment at birth and in later stages of childhood. In this regard, the Committee notes with concern that the Family Code (art. 143, para. 3) condones the abandonment of children born with serious physical or mental disabilities and under other “circumstances of importance”. The Committee is further deeply concerned at the insufficient number and poor quality of State services aimed at protecting and assisting families with children, and at the absence of a monitoring and evaluation system of such services. While noting a decline in court rulings terminating parental rights during the past three years, the Committee is alarmed at the persistently high number of removal of parental rights, leaving the number of children deprived of their family environment unacceptably high.
45. The Committee urges the State party to amend article 143, paragraph 3, of the Family Code in order to bring it into line with article 9 of the Convention. It urges the State party to intensify its efforts to provide the necessary support and resources to strengthen the family, in particular by moving from punitive measures with respect to neglect of parental duties to strengthening support systems and social benefits for families with children in order to enhance their capacity for the performance of their child-rearing responsibilities. In this regard, the Committee reiterates its previous recommendation to place children in alternative care or institutions only as a measure of last resort and if in the best interests of the child (CRC/C/15/Add.191, para. 48 (d)). The Committee also recommends that the State party put in place a system to effectively monitor and evaluate State services and support to families, including single parents, in need.

**Children deprived of a family environment**

46. The Committee is deeply concerned at the drastic increase in the number of children deprived of their family environment due to poverty, unemployment, breakdown of families, and labour migration. While noting the approval of the State Programme for reforming the child protection system (Res. No. 1242, Cabinet of Ministers) and increased efforts to develop further a system of alternative care such as foster families and family-type children’s homes, the Committee is concerned that, in the absence of a clear reform strategy, focus has not yet shifted towards deinstitutionalization. In this respect, the Committee is concerned at the large number of children who remain in residential care and at the absence of services for family reintegration. The Committee is further concerned at the insufficient staffing levels of the Children’s Affairs Offices which, inter alia, monitor placement of children in institutional care.

47. The Committee urges the State party to strengthen its deinstitutionalization policy in accordance with the State Programme for reforming the child protection system (Res. No. 1242, Cabinet of Ministers) and:

(a) To expand the placement of children in extended and foster families and other types of family-type placements;
(b) To strengthen the legislative and regulatory framework in order to facilitate family reintegration;
(c) To effectively monitor all care arrangements for children, particularly the placement of children with disabilities or special needs in institutions, including by strengthening the technical, human and financial resources of the Children’s Affairs Offices;
(d) To take into account the Guidelines for the Alternative Care of Children (General Assembly resolution 64/142, annex) and the Council of Europe Parliamentary Assembly resolution 1762 (2010) on children without parental care: urgent need for action in the implementation of the above recommendations.

**Abuse and neglect**

50. While noting as positive the keeping of statistical records of family violence cases since 2005 and the prohibition of all forms of violence against children in the Act on Protection of Childhood, the Committee is alarmed at the extent of, and increase in, abuse and neglect of children in all settings. The Committee is also concerned at the small proportion of cases of abuse and neglect of children which are reported and investigated and at the very limited number of prosecutions of such offences. Further, the Committee is concerned at inadequate health and social preventive measures aimed at strengthening parental responsibilities, including psychosocial support and counselling programmes.
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available to the child victim and all members of the family, including the non-violent or abusive or negligent parent. In addition, the Committee is concerned at the lack of systematic research and data collection on child abuse, including on cases of abuse and neglect in out-of-home care, including special educational and social rehabilitation institutions. The Committee is further concerned that the right of children aged 14 and above under the Family Code (article 18) to apply directly to court for protection may not be well known.

51. The Committee urges the State party to intensify efforts to prevent and combat all forms of abuse and neglect of children and:

(a) To ensure effective implementation of the Act on Protection of Childhood, including by improving public awareness of the Act and by enhancing skills and the capacity among social workers and law enforcement personnel to detect and investigate violations of the Act;

(b) To adopt preventive measures such as counselling and parental skills training and to conduct public education programmes about the negative consequences of abuse and neglect;

(c) To provide adequate protection and services for recovery, such as psychosocial support to the child victim, the abusive or negligent parent and other family members;

(d) To ensure that professionals working with children receive training on the identification of child abuse and neglect and on the obligation to report and take appropriate action in suspected cases of child abuse and neglect;

(e) To provide adequate human, technical and financial resources to systematically collect and analyse comprehensive data on child abuse. It further recommends that such data inform the State party’s structuring of appropriate measures for reducing the occurrence of abuse and neglect, as well as the establishment of an appropriate accountability mechanism for addressing instances in which it does occur;

(f) To promote targeted awareness-raising on article 18 of the Family Code among children, parents and professionals working with children.

Children with disabilities

52. The Committee is concerned at the persisting inadequacy of educational, social and health services for children with disabilities and their families. In particular, the Committee regrets that many obstacles remain in ensuring equal access to education for children with intellectual disabilities and that, due to the lack of early intervention and special education, many children with disabilities are placed in institutions. Furthermore, the Committee is concerned at the placement of children with or without disabilities during their first three years of age in infant homes and at the qualification of such children as having medical conditions, which negatively affects their development and quality of life and further reinforces institutionalization.

53. The Committee recommends that the State Party, in accordance with article 23 of the Convention and in cooperation with non-governmental organizations:

(a) Develop a comprehensive policy for the protection of the rights of children with disabilities and their equal access to educational, social and other services in their own family and community environment. In this endeavour, the Committee recommends that the State party address all priorities highlighted in the WHO European Declaration on the Health of Children and Young People with Intellectual Disabilities and their Families (endorsed by member States of the WHO European Region in 2010);

(b) Develop and strengthen early intervention services for children with disabilities and support to their families to prevent the institutionalization of children, in cooperation with parents’ organizations;
c) Establish a monitoring system for residential institutions for children with disabilities which closely examines the situation of their rights in these facilities, and ensure that monitoring favours the participation of civil society organizations and incorporates concrete steps to follow up recommended actions.

Mental health

58. The Committee, while welcoming the adoption in 2009 of the Ministry of Health order No. 176 aimed at improvement of psychiatric aid in 2009-2010 and the identification of child psychiatry as one of its priorities, is concerned at the absence of a comprehensive national mental health policy for adults and children. The Committee is further concerned at the high number of suicides among children, affecting particularly children living in rural areas and boys.

59. The Committee recommends that the State party develop a comprehensive national child mental health policy, along with all obligatory components of core recommendations by WHO, including mental health promotion, counselling, prevention of mental health disorders in primary health care, schools, communities, and child-friendly outpatient and inpatient child mental health services. The Committee also recommends that the State party strengthen efforts aimed at suicide prevention among children and youth, including by increasing available psychological consultation services and social workers in schools. The Committee recommends that the State party seek technical assistance from WHO.

G. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

66. The Committee is concerned that the decreasing population of school-age children is leading to a reduction of educational facilities, in particular in the countryside, and limits access to education for children living in rural areas, Roma children and children with disabilities. The Committee further notes with particular concern the decrease in the number of preschools, leaving only 61 per cent of children enrolled in preschools. While recognizing that the State party retained a relatively high level of public spending on education (6.2 per cent of GDP), the Committee reiterates the concern of the Committee on Economic, Social and Cultural Rights about the inadequate funding of the public education system and the low salaries of teachers in the State party (E/C.12/UKR/CO/5, para. 30) as well as at the poor quality of educational infrastructure.

67. The Committee recommends that the State party:
(a) Ensure adequate funding for the public education system by increasing the percentage of GDP allocated to the education sector;
(b) Undertake an analysis on causes of and possible solutions to the general decrease in the number of educational establishments and the number of children attending school and other educational institutions;
(c) Introduce inclusive education and promote social integration of children with special needs and ensure that vulnerable groups of children, including the abovementioned groups, are not discriminated against in the education system;
(d) Improve availability, accessibility and the quality of preschool and general education in rural areas;
(e) Seek assistance from, inter alia, UNICEF and UNESCO.
Vulnerable groups of women

42. The Committee regrets the lack of detailed information in relation to vulnerable groups of women, such as migrant and refugee women, women belonging to ethnic minorities, in particular Roma women, as well as rural women, older women, disabled women and female sexual minorities, and notes with concern that these groups of women may be subjected to multiple forms of discrimination.

43. The State party is invited to provide comprehensive information and statistical data in its next periodic report on the situation of the vulnerable groups of women, such as migrant and refugee women, women belonging to ethnic minorities, in particular Roma women, as well as rural women, older women, disabled women and female sexual minorities, and on the measures taken for eliminating discrimination against these women with regard to their access to health, education, employment, social benefits, etc.

D. Principal subjects of concern

13. The Committee is concerned about the large number of children, especially newborns and children with disabilities, who are abandoned or are otherwise deprived of a family environment, and regrets the absence of an effective strategy to address this phenomenon.

E. Suggestions and recommendations

30. The Committee urges the State party to take effective measures, including the development of strategies and awareness-raising activities, aimed at reducing and preventing the abandonment of children. In particular, the Committee recommends that the State party promote, through counselling and community-based programmes, the family as the best environment for the child and assist parents to keep their children at home. Moreover, it is recommended that the State party take effective measures to increase and strengthen family based alternative care, so that children are placed in institutions only as a last resort.