Romania

Answer to the questionnaire on the rights of persons with disabilities

**Question 1:**

According to the provisions of art. 51 of Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities, republished with subsequent amendments, persons with disabilities shall benefit from social services granted in day centres and residential centres of various types: public-private, public or private. The day centres and the residential centres are locations where social services are granted by specialized personnel and which have the infrastructure adequate to the supply thereof; the residential centres are locations in which the disabled person is housed for at least 24 hours.

For the purpose of the abovementioned law, the types of residential centres for disabled persons shall be: assistance and care centres, recovery and rehabilitation centres, centres of integration through occupational therapy, centres of preparation for an independent life, social assistance/crisis centres, community services and training centres, protected dwellings and other.

The admission of a person with disability in a residential centre shall only be made in case he/she cannot be ensured the protection and care at his/her domicile or in other services within the community.The right to social assistance in the form of social services shall be granted upon request or *ex officio,* as the case may be, based on justifying documents, under the conditions provided by law.

Also, the Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities dedicates a separate chapter to provisions regarding accessibility of the physical, informational and communicational environment. Thereby, according to the provisions of the abovementioned law, “public utility buildings, ways of access, dwelling buildings constructed from public funds, common transportation means and their stations, cabs, railway transport wagons for the travellers and platforms of the main stations, parking spaces, public streets and roads, public telephones, informational and communicational environment shall be adapted according to the legal provisions in the field, so as to allow the free access of disabled persons.”

In view of ensuring the access of disabled persons to the physical, informational and communicational environment, the public authorities shall take specific measures in order to assure authorized interpreters of the mimic and gesture language and of the language specific to deaf/blind persons and also to enable access to public information for persons with disability. The guide dog accompanying the person with a severe handicap shall have unrestricted and free of charge access to all public places and means of transport. Not least, the law provides for obligations regarding accessibility also for telephony operators, banking services operators, the owners of hotels spaces, publication houses, public libraries, and so on.

**Question 2:**

According to the provisions of Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities, republished with subsequent amendments, the person with a severe handicap shall have the right, based on the social and psycho-medical evaluation, to a personal assistant. If in a family there are two or more persons with a severe handicap entitled to personal assistant, each one of them will have a personal assistant.

Also, in order to ensure social services for persons with disabilities, public authorities are required to take special measures to ensure in home socio-medical care and assistance for the disabled person. People with disabilities receive social services provided in their home, in the community or in public or private day centres and residential centres.

According to Law no. 292/2011 on social assistance, local authorities have the duty to primarily ensure in-home care services for people with disabilities, and also to ensure services in day care centres, adapted to their needs, such as centres for recovery/rehabilitation, centres for social insertion/rehabilitation, social centres, centres for occupational therapy and other special therapies, day care and assistance centres, sheltered workshops/ protected units and like others, according to the responsibilities established by the special laws.

**Question 3:**

**a)** Local authorities have the responsibility of organizing, managing and funding social services for people with disabilities under the law. According to art. 44 of Law no. 448/2006, local authorities have a duty to engage and remunerate the personal assistant of the person with a severe handicap, as provided by law, and to ensure and guarantee the payment of the monthly indemnity, in case the person with a severe handicap or his/her legal representative opted therefor.

The local public administration authorities shall provide and guarantee in the local budget, the necessary amounts to pay for the remuneration and the other rights due to the personal assistant, according to the law.

**b)** The right to social assistance in the form of social services shall be granted upon request or *ex officio,* as the case may be, based on evidencing documents, under the conditions provided by law. In order to be classified as a personal assistant, that person will present himself at the city hall from the city of residence or domicile of the person with severe disability and submit a file containing, among other things, the written consent of the person with disability or, where applicable, that of the legal representative or of the family, for hiring him.

According to Law no. 292/2011 on social assistance, on the basis of a comprehensive assessment, the beneficiary is being presented with the list of accredited service providers for the existing services that can cover all or part of his needs, as previously identified. The beneficiary has the right to freely choose between accredited service providers. Provision of social services is made on the basis of a customized care plan, developed by the social service provider with the agreement and the participation of the beneficiary.

**c)** The parents or the legal representatives of the child with a severe handicap, the adults with a severe handicap or the legal representatives thereof, except for those with a severe visual handicap, may opt between a personal assistant and the receipt of a monthly indemnity. The adult with a severe visual handicap may opt for a personal assistant or a companion indemnity.

The right to express this option under the provisions of the law only operates while the document certifying the degree of disability includes the words "with personal assistant". The option is expressed through a written request to the county or Bucharest municipality sectors General Directorates for Social Assistance and Child Protection and only becomes valid under the written consent given thereof.

In order to be classified as a personal assistant, that person will present himself at the city hall from the city of residence or domicile of the person with severe disability and submit a file containing, among other things, the written consent of the county or Bucharest municipality sectors General Directorates for Social Assistance and Child Protection with respect to option made by the parents or the legal representatives of the child with a severe handicap, the adults with a severe handicap or the legal representatives thereof, except for those with a severe visual handicap.

**d)** According to Law no. 292/2011 on social assistance, in-home personal care can be formal or informal: formal care is being provided by a qualified person, certified professionally under the law while informal care shall be ensured by family members, friends, neighbours or other unqualified person who will assume the responsibility of caring for that person. The persons with disability receive in home personal care, provided by informal or formal caregivers.

The person with a severe disability, according to the nature of the disability and his specific care needs, can be assisted and cared for in-home by a family member employed as a formal caregiver, as provided by law. The persons with disability choose between a compensation indemnity and services provided by formal caregivers.

The person meeting the following conditions may be employed under an individual labour contract as a personal assistant: has the minimum age of 18; he/she was not sentenced for the perpetration of offences that would make him/her incompatible with the exercise of the personal assistant occupation; has full capacity of exercise; has an adequate health condition, attested by the family doctor based on a specialized medical examination and has graduated at least the mandatory secondary education, except for the relatives and in-laws up to the 4th degree, inclusively of the person with a severe handicap, and except for the wife or husband, as the case may be.

**e)** Social services providers are individual or legal entities, public or private. Public social services providers can be:

- Specialized structures within or subordinated to the local public authorities and executive authorities of the administrative units organized at the village, town, city and sectors of Bucharest level;

- Central public administration authorities or other institutions under their supervision or control, with responsibilities established by law regarding the granting of social services for certain categories of beneficiaries;

- Health units, educational units and other public institutions that develop integrated social services at community level;

Private social services providers can be:
- Non-governmental organizations, associations and foundations respectively;
- Religious cults recognized by law;
- Individual entities authorized by law;
- Branches and subsidiaries international associations and foundations recognized by law;
- Economic operators, under special conditions, prescribed by law.

In order to develop social services, local authorities may engage in public-private partnerships, under the specific legislation. Local authorities will inform beneficiaries of the services offered by the private social services providers.

Social services set up by public or private social services providers, are organized at local level, under the law, in compliance with the classification of social services and quality standards, the general rules for the minimum personnel normalization, underlying the cost standards covered by special legislation. At national level, a social services record system is organized, including data and information on social services.

**f)** According to Law no. 292/2011, social services set up by public and private providers at the local level are organized as follows: social services of local interest, addressed to the beneficiaries who live and reside in the territorial jurisdiction of the village, town, city, namely Bucharest sectors, and social services of county interest, addressed to beneficiaries who live and reside in the territorial jurisdiction of the county.

Social services can serve beneficiaries of several counties, in which case the establishment, organization and financing are being based on a partnership agreement, approved by county or local council decision.

**g)** Disabled children and adults, Romanian citizens, citizens of other states or stateless persons, shall benefit from the provisions of the law no. 448/2006 regarding the Protection and Promotion of the Rights of Disabled Persons, over the period in which they have, according to law, their domicile or residence in Romania.

**h)** According to art. 39 of Law no. 292/2011, the responsibility for the development, management and provision of social services is being shared as follows:

- The elaboration of public policies, programs and strategies in the field, their regulation, coordination and enforcement, the evaluation and the monitoring of the quality of social services – are responsibilities of the central government;

- The organization, management and provision of social services – are responsibilities of the local government, functions that can be outsourced to the non-governmental sector, religious institutions, individuals and other public or private legal entities according to the law;

- The funding of social services, under the law - from the local budget, with the beneficiary contribution and/or, where appropriate, that of his family, from the state budget and other sources.

**Question 4:**

According to Article 2 of Law 221/2010, the Directorate for the Protection of Persons with Disabilities within the Ministry of Labour Family, Social Protection and Elderly was designated to be the central authority to coordinate the implementation of the Convention. The Directorate for the Protection of Persons with Disabilities is also the focal point for its implementation. Considering the provisions of art. 33 para (2) of the Convention, and taking into account the status, goals, mission, and not least the prestige of the Romanian Institute for Human Rights (RIHR) the latter has been appointed the independent mechanism to promote, protect and monitor the implementation of the Convention by signing a collaboration protocol. Subsequently, this framework has been strengthened by the signing of a similar cooperation agreement with the Centre for Legal Resources in the sense of art. 33 para (2) of the Convention.

**Question 5:**

Statistical data on persons with disabilities can be found on the website of the Ministry of Labour, Family, Social Protection and Elderly Persons following the link <http://www.mmuncii.ro/j33/index.php/ro/protectie-sociala/ppd>.