22 April2015

Dear Madam/Sir,

In my capacity as Special Rapporteur on the rights of persons with disabilities pursuant to Human Rights Council resolution 26/20,I would like to transmitto you the questionnaire attached on *the right of persons with disabilities to social protection*.All responses should be sent electronically, in accessible formats and preferably in English, French or Spanish, to sr.disability@ohchr.org no later than **20 May 2015**. I would appreciate as concise responses as possible,and kindly ask you to attachannexes where necessary.

 Whenever possible, you are also encouraged to provide copies of relevant laws, policies, programme outlines, evaluations, and any other information relevant for the topic. Additional appropriate information, beyond what is specifically requested, would be welcome. Kindly also indicate if you have any objections with regard to your reply being posted on the website of the Office of the High Commissioner for Human Rights.

 I take this opportunity to thank you in advance for your assistance in this matter.

Catalina Devandas-Aguilar

Special Rapporteur on the rights of persons with disabilities

**Questions for National Human Rights Institutions:**

1. Please provide information in relation to the existence of legislation and policies concerning mainstream and/or specific social protection programmes with regard to persons with disabilities, including:
* Institutional framework in charge of its implementation;
* Legislative, administrative, judiciary and/or other measures aiming to ensure access of persons with disabilities to mainstream social protection programmes (e.g., poverty reduction, social insurance, health care, public work, housing);
* Creation of disability-specific programmes (such as disability pensions, mobility grants or others);
* Fiscal adjustments or other similar measures

In recent years (2013-2015) advocacy groups on disability rights along with Office of the Public Defender became stronger and more active than ever. Public Defender in his recent Annual Reports to the Parliament of Georgia, recommended the ratification of the UN CRPD. Main result of joint efforts is that the Convention on the Rights of Persons with Disabilities was ratified on 26th of December, 2013. Nevertheless, domestic legislation is still not up to date and harmonized with international standards. Few legislative amendments were made (e.g. – changed definition of PwD), but generally domestic legislation is practically unchanged. Georgian law on Protection of Persons with Disabilities is outdated.

Unfortunately, Georgia still follows medical model, which views disability as a problem of a person and medical care is viewed as the main issue. Most of the social protection programs are proposed and implemented by the Ministry of Labor, Health and Social Affairs of Georgia. Programs don’t provide services for persons with all kinds of disabilities and aren’t available for adequate number of beneficiaries. To put it bluntly, social protection programs don’t respond to the needs of persons with disabilities, they are revised annually, but not many amendments are made. Budget for such programs is practically unchanged through years. State Program on Social Rehabilitation and Child Care of year 2015 (Government Resolution #138; 30.03.2015) includes disability specific programs such as early Childhood Development program, Child Rehabilitation and Habilitation program, Day Care Centers program, Provision of Aids (i.e. Mobility Aid, Hearing Aid and etc.) for PwDs etc.

There is no full coverage of the PwDs in insurance programs as the insurance packages still do not cover their special needs. Access to healthcare infrastructure is still an issue and the same applies to the qualified and trained medical personnel who would provide high quality services to the people with disabilities.

1. Please provide information on how persons with disabilities are consulted and actively involved in the design, implementation and monitoring of social protection programmes.

Burden of discussing existing problems in the field and outlining of future priorities is on the State Coordination Council working on the issues of PwDs (Chaired by the Prime Minister of Georgia). Main objective of the Council is to affect Governmental Policies.

Nevertheless, persons with disabilities aren’t directly involved in the process of development of social programs and there is no dedicated framework in the Ministry of Labor, Health and Social Affairs that would aid and include PwDs in the decision making process.

1. Please provide information in relation to difficulties and good practices on the design, implementation and monitoring of mainstream and/or specific social protection programmes with regard to persons with disabilities, including:
* Conditions of accessibility and the provision of reasonable accommodation;
* Consideration of the specific needs of persons with disabilities within the services and/or benefits of existing programmes;
* Difficulties experienced by persons with disabilities and their families in fulfilling requirements and/or conditions for accessing social protection programmes;
* Consideration to age, gender and race or ethnic-based differences and possible barriers;
* Conflicts between the requirements and/or benefits of existing programmes, and the exercise by persons with disabilities of rights such as the enjoyment of legal capacity, living independently and being included in the community, or work;
* Allocation of grants to personal budgets;
* Disability-sensitive training and awareness-raising for civil servants and/or external partners;
* Existence of complaint or appeal mechanisms.

Services, benefits and aids for PwDs are standardized and don’t prioritize the need of the individual who is receiving it. Concept of “reasonable accommodation” is almost never considered during the development of the social programs. Some programs are dependent on social situation of the PwD, so that person, who is included in the database for socially vulnerable families, gets priority to become beneficiary of a certain program and individual needs aren’t considered.

One of the main difficulties for accessing of social protection programs is – lack of information about programs (mainly in the regions) or how to apply to receive services, geographical accessibility and lack of designated number of program beneficiaries. Even if a person manages to participate in certain program, as mentioned above, services provided by programs are rarely adequate to the needs of PwDs receiving them. Result of the lack of needs assessment is that the services provided by programs are often in conflict with its objectives.

Gender, age, race and ethnic based differences and possible barriers are yet to be researched.

Disability sensitive training and awareness raising for civil servants and/or external partners is almost nonexistent or provided by few non-governmental organizations.

Legal capacity evaluation and guardianship system was the subject to change just few months ago. With the former system, enjoyment of legal capacity for PwDs was a problematic issue and caused conflicts, as many of them were considered as incapable of making decisions by court and had guardians/caregivers who had right to make decisions in their stead. Civil code recognized the term “totally incapable person”, who had guardian/caregiver and wasn’t able to make decisions or participate in contractual or any other kind of legal relationships by himself/herself. From April 1st, 2015, new terminology and concepts were introduced in Civil Code of Georgia: **Supporter** and **Recipient of Support**. After these legislative amendments, guardians/caregivers have 4 years to register as a supporter.

Living independently for PwDs is connected with various difficulties. A very little number of PwDs live independently or have a constant job. According to the recent statistics only 24 PwDs are employed in the public sector, while Georgia has more than 100 000 Public Servants.

As for the complaint mechanisms - if a person with disabilities wants to submit a complaint, s/he can address relevant public authority and/or court. These are the only complaint mechanisms as Georgia has yet to ratify the Optional Protocol on the Rights of Persons with Disabilities.

1. Please provide any information or data available, disaggregated by impairment, sex, age or ethnic origin if possible, in relation to:
* Coverage of social protection programmes by persons with disabilities;
* Rates of poverty among persons with disabilities;
* Additional costs or expenses related to disability.

Detailed statistics disaggregated by impairment, sex, age or ethnic origin is not available. As reported by the Ministry of Labour, Health and Social Affairs, just 3% of Georgian population are persons with disabilities, on the other hand, according to the World Health Organizations World Report on Disabilities, About 15% of the world’s Population lives with some form of disability. Thorough statistics on the employment of persons with disabilities is also non-existent. State pension for PwDs is segregated and equals to 150 and/or 100 GEL (about 70 and 40 Euros). Researches on the additional costs or expenses related to disability and poverty rates are unavailable as government hasn’t conducted it yet.

1. Please provide information in relation to the eligibility criteria used for accessing mainstream and/or specific social protection programmes with regard to persons with disabilities, including:
* Definition of disability and disability assessments used for eligibility determination;
* Consistency of the eligibility criteria among different social protection programmes;
* Use of income and/or poverty thresholds;
* Consideration of disability-related extra costs in means-tested thresholds.

“Person with Disability” is defined by the Georgian legislation as follows: “Person with severe physical, psychical, intellectual or sensory disorder, which in interaction with various barriers may hinder their full and effective participation in social life, on equal terms with others”.

Instruction on the Rules for Determining Disability Status (Order #1/ნ of the Minister of Labor, Health and Social Affairs; 13.01.2006) includes four degrees of disability – mild, moderate, severe and profound. Instruction covers specific diagnoses and health conditions which result in certain degree of disability, Therefore disability status is issued according to medical condition. Persons with severe and profound disabilities get state pensions (150 and 100 GEL, accordingly). Children with disabilities receive state pension too.

Some of the social protection programs are just for children with disabilities, whilst other programs are for persons with physical disabilities and/or other kinds of disabilities. Eligibility criteria are different through the social protection programs as they are applied to various groups of PwDs. In some cases preference for receiving services provided by certain programs is given to persons who are in the database for socially vulnerable families (For example: “Child Habilitation and Rehabilitation Program”).

As mentioned, accurate statistics on disability-related extra costs is nonexistent, therefore they can’t be considered in any way.