



**Alternative Report on Implementation of the UN Convention on the Rights of
Persons with Disabilities
(the second and third periodic reports of the Republic of Armenia)**

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About the Organization

Helsinki Citizens' Assembly-Vanadzor is a human rights organization, whose activity covers the whole territory of the Republic of Armenia. One of the Organization's activity spheres is protection of the rights of persons with psychosocial and intellectual disabilities. Since 2007, Helsinki Citizens' Assembly-Vanadzor has been studying the state of the rights of persons with psychosocial and intellectual disabilities, raising current issues and conducting advocacy to overcome them. The Organization also provides free legal aid and represents persons with psychosocial and intellectual disabilities in court.

The Organization is a member of the Coalition for Inclusive Legal Reforms, which is engaged in protection of rights of persons with disabilities.

General Information

The report is compiled by Helsinki Citizens' Assembly-Vanadzor non-governmental organization. In 2014, the Organization presented the UN Committee on the Rights of Persons with Disabilities with an alternative report on the state of rights of persons with psychosocial and intellectual disabilities in the Republic of Armenia and then also recommendations regarding the list of problems specified in the first report of the Republic of Armenia.

Below are some successful reforms - aimed at ensuring rights of persons with psychosocial and intellectual disabilities - made after presentation of the report of the Republic of Armenia Government to the Committee on the Rights of Persons with Disabilities and publication of the Committee's concluding observations:

- As ordered by the RA Minister of Health and Minister of Labor and Social Affairs, public monitoring groups were established to conduct monitoring in psychiatric institutions and state institutions of care for persons with mental health problems,
- On 30 January 2020, the RA Constitutional Court made a decision to recognize anti-constitutional provisions of a number of the Republic of Armenia laws not guaranteeing informed consent of minors and persons recognized incapacitated regarding their medical interventions,
- In 2021, the RA Law "On rights of persons with disabilities" was adopted.

Nonetheless, those are rare cases of success at legislative level, but the main reforms are delayed:

- very few rights-based services have been introduced,
- community-based services in line with needs of children and minors have not been introduced,

- there is a great need for mental health specialists, especially in the RA provinces,
- Optional Protocol to the Convention on the Rights of Persons with Disabilities has not been ratified,
- the practice of recognizing persons incapacitated, as well as involuntary hospitalization and treatment in line with the RA legislation continues,
- the RA Law “On ensuring legal equality” has not been adopted,
- since 2019, there has been no unified strategy in the mental health sphere and no action is taken to that end.

It should be mentioned that the fact that the state’s measures taken in the sphere of mental health preservation are not enough and proper was particularly manifested after the war unleashed by Azerbaijan against the Republic of Artsakh in 2020. Thousands of servicemen need psychological support, yet over the past years, the state has not established necessary services, the shortage of specialists has not been solved and dignified treatment conditions have not been provided to guarantee psychological support and service. According to the RA Prosecutor’s Office, a number of suicide cases and suicide attempts are directly related to psychological problems developed as a result of the war unleashed by Azerbaijan against the Republic of Artsakh in 2020.¹ This means that the state, having a five-year strategic program of reforming the mental health sphere, hardly implemented measures established by the strategy and its obligation to maintain citizens’ mental health.

General principles and obligations (Articles 1-4)

Mental Health Maintenance and Improvement Strategy was acting in the Republic of Armenia in 2014-2019. The Strategy was not implemented effectively, problems related to the rights of persons with psychosocial and intellectual disabilities were not solved ², and no work is initiated to develop a new strategy.

The Optional Protocol to the Convention on the Rights of Persons with Disabilities was not ratified, either. Though the Republic of Armenia did preparatory work to that end and proposed its ratification draft to the RA National Assembly on 11 November 2020, the Government withdrew the draft on 29 January 2021, without giving the public any justification, and the issue of ratification remained unsolved.

¹ See “The Prosecutor General has raised the need to expand the psychological and psychiatric first aid of the relatives of the participants of war, killed or missing servicemen”, available at <https://www.prosecutor.am/en/mn/8209/>

² See “Report on the Implementation of 2014-2019 Strategy of Maintenance and Improvement of Mental Health in the Republic of Armenia”, available at https://hcav.am/en/evaluation_mental-health-strategy_2014-2019/

The work conducted to raise public awareness regarding psychosocial and intellectual disability is not effective and inclusive, either, which is evidenced by ongoing stigma and discriminatory attitudes.

Questions:

- When will the new strategy improving the mental health sphere be developed and approved?
- When will the Optional Protocol to the Convention on the Rights of Persons with Disabilities be ratified?
- What mechanisms are in place to assess effectiveness of trainings and awareness raising actions aimed at elimination of discriminatory attitude?

Special rights (Articles 5-30)

Equality and discrimination (Article 5)

There is no unified effective policy aimed at overcoming discriminatory attitudes towards persons with psychosocial and intellectual disabilities.

The RA Constitution and other domestic legal acts, including the RA Law "On the rights of persons with disabilities", enshrine elimination of discrimination based on disability; nonetheless, the separate law comprehensively regulating the sphere of combating discrimination is still in the drafting phase. Certain legal acts prohibit persons with psychosocial and intellectual disabilities from applying for certain positions. For example, the RA Government's decision N 685-Ն of 30 May 2019 approves "the list of physical defects and diseases impeding appointment in the position of a judge", according to which, persons with certain diseases or disabilities are deprived of the opportunity to apply for that position.

State institutions' stigmatizing and discriminatory attitude towards persons with psychosocial and intellectual disabilities continues. Police officers take a person to a psychiatric institution, saying "he's your client", "we won't deal with him, he's trouble" and other similar expressions, medical workers of other profiles sometimes even avoid serving persons with psychosocial and intellectual disabilities, "they do not even want to touch them". Moreover, in connection with the nature of their work, employees of psychiatric institutions are subjected to stigma in medical institutions, too.

During recent years, officials have often used formulations insulting, labeling and degrading persons with psychosocial and intellectual disabilities in order to criticize one another ("psychotic", "mentally retarded", etc.). Moreover, a number of deputies periodically present legislative initiatives promoting discrimination on the basis of

psychosocial and intellectual disabilities. For example, in September 2020, representative of the opposition faction of the National Assembly announced about initiating a process of proposing a legislative initiative to prohibit persons with psychosocial disabilities from being appointed in high-ranking political positions.³ The initiative was also supported by representatives of the faction with most members in the National Assembly.

Some services for persons with psychosocial and intellectual disabilities (for example, home care service) are provided only in capital city Yerevan and are not available for residents of provinces. Moreover, as of April 2021, only 60 persons with psychosocial disabilities receive home care services, whereas about 54,000 persons with psychosocial and intellectual disabilities are registered in the Republic.

Questions:

- What is non-adoption of the law comprehensively regulating the sphere of combating discrimination conditioned by and when will it be adopted?
 - Will the law involve definition of discrimination based on disabilities in public and private sectors (including multiple and intersecting forms of discrimination, especially gender-based discrimination)?
- What measures are implemented to ensure availability of services to all persons with psychosocial and intellectual disabilities?
- What measures are taken to eliminate stigmatization of persons with psychosocial and intellectual disabilities and how is their effectiveness assessed?

Women with disabilities (Article 6)

On 12 December 2017, the RA Law “On prevention of domestic violence, protection of victims within the family and restoration of solidarity in the family” was adopted. However, the Council of Europe Convention on preventing and combating violence against women and domestic violence was not ratified. The Ministry of Justice initiated the process of ratifying the Convention back in 2019, but has not sent it to the National Assembly yet.

Women with disabilities continue to be subjected to violence. “...At home or within the family, persons most subjected to violence are women with disabilities, then women with cerebral palsy. Domestic violence reasons vary, from the flawed work of social and

³ See “Discrimination based on disability is violence against the relevant person’s dignity”, Statement, Helsinki Citizens’ Assembly-Vanadzor, available at <https://hcav.am/en/statement-18-09-2020-1/>

legal institutes to lack of awareness about one's rights...”, reads the research of Agate Rights Defense Center for Women with Disabilities.⁴

Questions:

- What is delay of ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence conditioned by and when will it be ratified?
- What steps are taken for proper implementation of the Law “On prevention of domestic violence, protection of victims within the family and restoration of solidarity in the family”, especially in terms of women and girls with psychosocial and intellectual disabilities, and how is effectiveness of those steps assessed?
- What steps are taken to raise awareness of persons with psychosocial and intellectual disabilities about violence, including domestic violence, sexual violence, sexual harassment and other related topics, in a language comprehensible to them?
- Is statistics held and disaggregated data collected regarding cases of violence against women and girls with psychosocial and intellectual disabilities?

Children with disabilities (Article 7)

In recent years, the number of community-based services for children with psychosocial and intellectual disabilities has grown, however, they are still not enough. Lack of the relevant support in the community leads to restriction of children's opportunity to be involved in the community and results in their isolation.

Disability pension provided to children by the state is AMD equivalent to about USD 54, whereas cost of the minimum consumer basket was about USD 142 in the second quarter of 2021 (1 USD is 490 AMD). Moreover, lack of services deprives at least one family member of a child with disability of the opportunity to work, which negatively affects the family's financial security and thus also the well-being of children.

Having attained the age of 18, children in child care institutions under the RA Ministry of Labor and Social Affairs continue to live in the institution or are transferred to closed care institutions for adults as a result of the lack of support services in the community. According to the data of the RA Labor and Social Affairs, as of 31 December

⁴ See “From beating to neglect: what types of violence are women with disabilities most subjected to in the family”, Agate Rights Defense Center for Women with Disabilities NGO, <http://agatengo.org/ճեօհց-Մհնս-աւնտնւմ-ընտանիքնւմ-ամենի/?lang=hy&fbclid=IwAR3zdyBHCvgywPL-SdVnY2NyzfsaxwLHgAiePMGJMTuDn49GwaHhMkxABqs>

2020, 168 18-year-old persons with disabilities continued living in the specialized orphanage after Mari Izmirlyan and specialized orphanage in Kharberd. During 2019-2020, the Ministry provided 206 apartment purchase certificates to former residents of orphanages. However, there is no data regarding the number of certificates provided to persons with disabilities having attained the age of 18, since the Ministry does not hold statistics for that line. Moreover, on 28 October 2021, the Republic of Armenia Government made a decision, which is discriminatory in terms of rights of persons with disabilities, deprives of the right to choose a residence place and contradicts the Convention on the rights of persons with disabilities. In particular, the RA Government's decision 1774-Ն establishes that "beneficiaries who do not have self-service capabilities" do not have the right to get an apartment purchase certificate.

Violence, including violence against children with psychosocial and intellectual disabilities, is continuous in state care institutions.

The right of children with psychosocial and intellectual disabilities to information about sexual life, health and the right to education are not ensured.

Questions:

- How and when was the need for services necessary for children with psychosocial and intellectual disabilities assessed and what are the needs assessed?
- When and with what means will children with psychosocial and intellectual disabilities be provided with available community-based services in line with their needs?
- In what timeframe is it envisaged to make disability pension commensurate with at least the minimum consumer basket cost?
- What support and community services are envisaged for parents of children with psychosocial and intellectual disabilities?
- How many 18-year-old residents of orphanages have received apartment purchase certificates so far?
- When is introduction of community-based services envisaged, which will prevent residence of 18-year-old persons with psychosocial and intellectual disabilities in care institutions?
- What was the substantiation for adopting the RA Government's decision 1774-Ն?
- What steps are taken to protect children with psychosocial and intellectual disabilities against possible violence, and how is effectiveness of those steps assessed/what results have been recorded?
- How are children with psychosocial and intellectual disabilities informed about sexual health maintenance, sexual life, violence, are they informed in a

comprehensible language, and how is effectiveness of those steps assessed/what results have been recorded?

Equal recognition before the law (Article 12)

Domestic laws recognizing a person incapacitated, in particular, the relevant provisions of the RA Civil Code, have not been amended. Moreover, the revised version of the Constitution also uses the term “incapacitated” (Articles 48; 98; 164; 193). In 2020, the RA Law on “Psychiatric aid and service” was adopted and maintained provisions related to recognizing persons as legally incapacitated.

Statistical data also evidences that the practice remains unchanged in this sphere. Since 1 January 2010 until June 2012, the RA General Jurisdiction Courts of First Instance received 739 applications to recognize a person incapacitated, 447 of which (i.e., almost 60% of applications) were upheld. 73.6% out of 140 claims - on recognizing a person incapacitated – taken into proceedings in 2019 was upheld and only 6.4% was rejected.

Reasons for recognizing a person incapacitated are conditions such as taking ownership of their property, placing them in an institution and other personal, social-economic conditions. Though there is no legislative requirement that a person be recognized incapacitated in order for care institutions acting for persons with psychosocial and intellectual disabilities to accept them, it continues to remain a compulsory precondition in practice.

The RA Government’s decision N 1030-L 2021 of June 24 in 2020-2022 Action Plan of National Strategy for Human Rights Protection envisaged to ensure the right of persons with psychosocial and intellectual disabilities to make decisions in questions concerning themselves, including by introducing support-based decision-making mechanism, however, this is not a guarantee for making reforms in the sphere.⁵

Questions:

- What steps are taken to eliminate the institute of recognizing persons incapacitated and what timeframe is set for it?
- What are the guidelines according to which changes are to be made?
- How will involvement of persons with psychosocial and intellectual disabilities, their family members and civil society representatives, in the process be ensured?

⁵ See “Elimination of the institute of recognizing persons incapacitated on the agenda”, Helsinki Citizens’ Assembly-Vanadzor, available at <https://hcav.am/en/gov-24-06-2021/>

Access to justice (Article 13)

Though the Committee expressed its concern regarding unaffordability of services, no solution has been given in terms of the obligation of a person to pay state duty to appeal the judgment on involuntary treatment or recognizing as incapacitated. Moreover, the financial burden has increased by thus making justice more unaffordable and unavailable. According to the amendments made to the RA Law "On state duty" in 2021, rates for claims, applications, appeals against judicial acts increased four times on average, whereas no state duty is required for claims to recognize a person incapacitated. Judicial practice is also worrisome. In 2018-2020, in more than 20% of cases, persons being recognized incapacitated did not participate in judicial sessions, and their right to be heard was not ensured.

The legislator has manifested a differentiated approach to persons who have the power to make an application to eliminate judgments regarding involuntary hospitalization of a citizen in a psychiatric organization and subjecting the citizen to involuntary treatment. If a person recovers sooner than established by the judgment regarding subjecting the citizen to involuntary inpatient psychiatric treatment, the medical organization has the right to apply to court to eliminate the judgment on subjecting the citizen to involuntary hospitalization (part 1 of Article 270.1 of the RA Civil Procedure Code); whereas, during the proceedings of recognizing legal capacity of the person recognized incapacitated and eliminating restriction of the citizen's legal capacity, the incapacitated person can himself apply to restore his legal capacity.

The RA Law "On psychiatric aid and service" establishes the right to legal aid while a person is in a psychiatric organization, including public protection established under the RA Law "On advocacy" (clause 17 of part 1 of Article 5). According to the official website of the RA Judiciary, during 2014-2015, only 4 persons applied to get legal aid. According to the data received from the RA psychiatric institutions, during 2016-2018, 18 persons applied to get legal aid; during 2019-2020, 258 persons applied to get legal aid (in 2020, 209 persons received legal aid in only 1 institution). Though the presented statistics shows that exercise of the right to free legal aid is gradually improving, analysis of the data received evidences that no systemic changes were made in terms of persons in institutions applying to get legal aid, and increase in the number of applications is conditioned by increase in the number of applications in one or two institutions.

Questions:

- Before elimination of systems of involuntary hospitalization, treatment and recognizing persons as incapacitated, how is non-payment of state duty by persons or their representatives for appealing final judicial acts regarding

recognizing a person incapacitated, and involuntary hospitalization, examinations and/or treatment, going to be regulated?

- When and how will a citizen's, his/her family members' right be enshrined to claim to abolish the judgment regarding subjecting a person to inpatient involuntary psychiatric treatment?
- How will the right to legal aid since the moment of restriction of freedom be ensured irrespective of existence of an application by the relevant person or his/her official representative?

Liberty and security of person (Article 14)

The practice of involuntary hospitalization and treatment, as well as long-term isolation in care centers and psychiatric institutions of persons with psychosocial and intellectual disabilities, including persons recognized incapacitated, continues. According to the official webpage of the RA Judiciary, during 2010-2020, there was at least 68.4% and at most 89.1% of judgments upholding claims regarding involuntary treatment annually. Only 2.8% of those decisions were appealed. An average of 9.7% of cases was rejected.

Often, persons give consent only formally: a person's "forced" consent becomes a precondition for being discharged from a psychiatric institution sooner. Besides, involuntary hospitalization and treatment of a person is sometimes conditioned not by his/her health state, but rather, by the caregiver's personal interest.

The RA Law on "Psychiatric aid and service", adopted in 2020, enshrines a person's involuntary hospitalization and treatment "with the purpose of preventing the danger posed by the person with mental health problem (including for his/her or other persons' life or health)" (Article 24). In case of having a legal representative (including in case of being recognized incapacitated), *even voluntary aid and service* is implemented with the consent of the legal representative, with some exceptions: "a child aged 16 or above or a person recognized incapacitated in a manner provided for by law gives a written informed consent or refusal regarding psychiatric interventions (except for cases provided for by law), if 1) in the psychiatrist's opinion, a child aged 16 or above or the person recognized incapacitated in a manner provided for by law is able to understand possible consequences of psychiatric interventions or lack of psychiatric interventions; 2) that information will not harm the child aged 16 or above or the person recognized incapacitated in a manner provided for by law; 3) it will facilitate provision of psychiatric aid and service" (Article 17).

Questions:

- What steps are taken to eliminate involuntary hospitalization and treatment and in what timeframe is it envisaged to make legislation in line with the Convention requirements?
- What are the guidelines in line with which changes are to be made?
- How will involvement of persons with psychosocial and intellectual disabilities, their family members and civil society representatives in the process be ensured?

Freedom from torture or cruel, inhuman or degrading treatment or punishment (Article 15)

The RA domestic legislation prohibits use of torture (Article 26 of the RA Constitution) and establishes liability (Article 309.1 of the RA Criminal Code). Nonetheless, legislative regulations are not complete, since for a crime to be qualified as torture, the subject should be an official. Whereas, in a psychiatric institution, for example, a person may be subjected to ill-treatment by a sanitation worker or medical staff not considered officials. In such cases, the act is qualified as crime against a person's life or health, which, however, does not stem from the absolute prohibition of torture.

There is a high risk of psychiatric institutions being used as a mechanism of punishment: a person may appear in a psychiatric institution due to his/her sexual orientation or religious affiliation, and the potential of their involuntary treatment might be considered. Moreover, restraint measures are used towards persons in psychiatric institutions in order to punish them. The Human Rights Defender recorded a case, when a person was held in the physical restraint room for 7 days and slept on physical restraint bed throughout those 7 days. Moreover, that very person and other persons receiving treatment and care in the department, as well as representatives of the medical staff, considered that person's isolation and restrictions imposed on him as use of punishment.

Questions:

- When will the list of torture crime corpus delicti be expanded to involve persons working in psychiatric institutions?
- What measures are taken to eliminate the practice of using psychiatric institutions as punishment?

Living independently and being included in the community (Article 19)

Persons with psychosocial and intellectual disabilities continue residing in care or psychiatric closed institutions, deprived of the opportunity to exercise the right to live independently and be included in the community.

Though the foundation of deinstitutionalization policy was laid in Armenia in 2013, no closed institution has so far been dissolved for the sake of deinstitutionalization; moreover, due to shortage of community services, there are queues to be accepted to institutions. There is a limited number (12) of community services, that serve 363 persons and are located in the RA capital city Yerevan and 3 out of 10 provinces (there are about 54.000 persons with psychosocial and intellectual disabilities). Furthermore, though these services are subsidized by the state, they often face the danger of being closed down due to insufficient financial means or their irregular provision.

In the conditions of lack of community-based services and substantive steps to introduce them, unification of psychiatric institutions and state funding of reconstruction projects of those institutions become even more worrisome. In 2021, the RA Government's USD 10 million program of reconstructing National Center of Mental Health Care was approved, and yet, only about USD 320.000 was provided to state-subsided 12 community services.

Questions:

- When is it envisaged to develop and approve a deinstitutionalization strategic program in the mental health sphere?
- Is the need for community services necessary for persons with psychosocial and intellectual disabilities assessed? What are those services?
- How much money is to be provided for introduction and activity of community services in 2022-2024?

Respect for home and the family (Article 23)

No amendments have been made to the RA Family Code to eliminate prohibition of adopting children and undertaking parenting rights imposed on persons with psychosocial and intellectual disabilities, as well as prohibition of marrying imposed on persons recognized incapacitated. Moreover, 2021 draft amendments to the Family Code envisaged mental, intellectual or neurological health problems as grounds for restricting parenting rights. Non-governmental organizations engaged in protection of rights of persons with disabilities proposed a recommendation to change the provision, but it was not accepted by the competent body.

Questions:

- When are legislative changes envisaged to ensure the right of persons with psychosocial and intellectual disabilities to make a family adopt children and undertake parenting rights?

Education (Article 24)

Despite the declared policy of inclusiveness and actions taken to implement it, persons with psychosocial and intellectual disabilities are actually deprived of the opportunity to get proper education in line with their needs.

General education schools do not have sufficient specialists with the relevant skills. Inclusion of the parent thus becomes a necessary condition for the child to be in school. Moreover, though it was planned to shift to general inclusive education by 2022 by thus stopping education of children with disabilities, including children with psychosocial and intellectual disabilities, in special schools, they still function as schools for those children.

Programs of secondary vocational and higher educational institutions are general and do not take into account individual needs and requirements of persons with disabilities. One of the reasons is that educational institutions are not involved in their development and decision-making process.

Questions:

- What steps are taken to ensure that persons with psychosocial and intellectual disabilities receive quality education in line with their individual needs and requirements throughout all stages of education?
- Is it envisaged to stop/change activity of special schools? In what direction and timeframe?
- What mechanisms are to be used to assess impact of the measures taken and what are the lessons learned and measures to be taken to avoid them later?

Health (Article 25)

Psychiatric institutions continue to be the main method of providing psychiatric aid. Moreover, those institutions are not accessible in 5 out of 10 provinces of the Republic of Armenia.

The issue of having enough psychiatrists and psychotherapists is particularly worrisome in provinces. According to 2020 data, 1 psychiatrist is available for every 358 persons with psychosocial and intellectual disabilities in capital city Yerevan, and 1 psychiatrist is available for every 813 persons in provinces. Moreover, there is no psychotherapist in 9 out of 10 provinces of the Republic of Armenia, and there are 6 child psychiatrists in the whole territory of the Republic and all of them are in capital city Yerevan.

Proper prevention and control of physical diseases in psychiatric institutions, as well as the right of persons receiving treatment and care in psychiatric institutions to treatment in the conditions of the Covid-19 pandemic was not properly ensured in general medical centers. Moreover, in the conditions of the Covid-19 pandemic, psychiatric service of persons with indications to be hospitalized and treated was not ensured, either.⁶

Questions:

- How is availability of quality inpatient and outpatient psychiatric mental health services going to be ensured in line with the relevant needs, including in emergency conditions?
- What measures are taken to ensure availability of services for treatment of physical illnesses of persons with mental and intellectual disabilities, including in emergency conditions?

Participation in political and public life (Article 29)

Persons recognized incapacitated still do not have the opportunity to exercise their right to vote. In particular, the RA Constitution establishes that “citizens of the Republic of Armenia having attained the age of eighteen shall have the right to elect and the right to participate in the referendum”, except persons declared, upon civil judgment of the court having entered into legal force, as having no active legal capacity, as well as persons sentenced and those serving the sentence, upon criminal judgment having entered into legal force, for a grave criminal offence committed intentionally (Article 48).

Questions:

- What steps are taken to guarantee suffrage of all persons with psychosocial and intellectual disabilities?

⁶ See The RA psychiatric institutions in the conditions of COVID-19 (part 2): The State of Control and Prevention of Somatic Diseases, Report, A public monitoring group, available at https://hcav.am/wp-content/uploads/2021/10/Report-Somatic-health-care-in-psychiatric-hospitals_English_final_011221-1.pdf