**Questionnaire on** **the right of persons with disabilities to the highest attainable standard of health**

1. **Please provide information on existing or planned legislation and policies to ensure the realization of the right to health of persons with disabilities, including current challenges and good practices.**

* Constitution of the Republic of Albania

**Article 55**

1. Citizens enjoy in an equal manner the right to health care from the state.

2. Everyone has the right to health insurance pursuant to the procedure provided by law.

**Article 59**

1. The state, within its constitutional powers and the means at its disposal, aims to supplement private initiative and responsibility with: (...)

e) care and help for the aged, orphans and persons with disabilities;

f) health rehabilitation, specialized education and integration in society of disabled people, as well as continual improvement of their living conditions;

* Law No. 8098/1996 “On the status of blind persons”

**Article 2 / ç**

“The state and society shall protect blind persons and create all the conditions for their integration in normal life. Integration means active participation by meeting the following conditions: (…)

…ç) Allocation of funds for the screening and re-diagnosing by oculist clinics of the state health care system under the supervision and with the assistance of foreign specialists from advanced western clinics, and creation of favorable conditions for the treatment of eyes and other congenital or acquired conditions”.

**Article 9**

The State shall offer blind persons free health insurance as well as free medication and free auxiliary medical equipment, up to a limit established by the Council of Ministers.

* Law No. 8626/2000 “On the Paraplegic and Tetraplegic Disability Status”

**Article 3**

“…The Ministry of Health foresees each year in the budget the necessary funds for annual periodic examinations by a specialized physician for paraplegic and tetraplegic patients”

**Article 9**

“The State exempts from health insurance payments, paraplegic and tetraplegic patients, and gives them the right to free medication benefits due to illness, consequence of invalidity”

**Article 10**

“The paraplegic and tetraplegic patients who are in serious condition and are unable to appear in the home-care facilities will benefit from the home-based service provided by the family doctor and the specialist doctor for those medical procedures that can be performed outpatient and under house conditions….”

* Law No. 7889/1994 “On the status of invalids”

**Article 10**

"For seriously paralyzed and severely disabled people, there is a free medical service"

**Article 13**

* + - 1. The premises of health, social care and public institutions are adapted to their use by blind and paraplegics. The procedure and phases of adaptation are determined by a decision of the Council of Ministers.

1. All new public constructions that are implemented after the entry into force of this law, should provide access to different categories of people with disabilities. "

* Law No. 93/2014 "On the inclusion and accessibility of people with disabilities”

**Article 5**

**Independent living**

* + - 1. Independent living provides people with disabilities with equal choice, control and freedom, where appropriate, by providing support and assistance based on the individual's choice and aspirations for everyday life, including access to housing, transport, health, social care, education, employment and services and other opportunities, and through participation in all spheres of life, including family, community and civic life.
      2. State policies support people with disabilities to have access to all spheres of life and, inter alia, have access to: (...)

dh) training and rehabilitation centers,

e) health services through appropriate infrastructure

* Law No.121/2016 “On social care services in the Republic of Albania”

**Article 12**

(... )

1. Domestic service is provided to children, the elderly, and people with disabilities who are unable to care for themselves and cannot be assisted by family members or guardians.
2. Domestic service is a combination of day care services that includes:
3. Supply and distribution of home-made food;
4. supply of medicines or other supplies;
5. personal hygiene:

ç) fulfilment of other daily needs, according to assessment, on a case-by-case basis;

d) psycho-social support.

**Article 13**

* + - 1. Psycho-social support is provided individually or in a group and aims at encouraging, rehabilitating, developing cognitive, functional, communicative or social skills of beneficiaries.
      2. When deemed necessary by needs assessment and referral structures, psychosocial support may also be provided as part of specialized services.
* Law No. 44/2012 “On mental health”

**Article 2:**

This law sets out the procedure and conditions for the protection of mental health, through the provision of health care, the provision of a social environment suitable for persons with mental health disorders and through preventive policies for the protection of mental health.

* Law No. 10107/2009 “On health care in the Republic of Albania”

**Article 2**

Healthcare is guided by the following principles:

1. the right to health care is a fundamental right of the individual;
2. guaranteeing equal rights in health care based on non-discrimination;
3. the health care system functions based on efficiency and quality of service, ensuring patient safety and impartiality;

ç) the participation of different actors, patients, consumers and citizens;

d) accountability to citizens.

The People's Advocate Institution, according to the law no.93 / 2014 "*On the Inclusion and Accessibility of Persons with Disabilities*", in his monitoring role on the implementation of this law in accordance with the UN Convention "*On the Rights of Persons with Disabilities*", has find out that despite the determination of legal deadlines for issuing sub-legal acts from the entry into force of the law, they have not yet been issued.

On 06.02.2017 we have recommended to the Minister of Social Welfare and Youth *to take the measures for the issuance of subordinate legal acts pursuant to article 6 / 3 (Services for an independent living); Article 7/3 (Supported decision-making) Article 10/5 (Disability Assessment Committee and Needs for Assistance and Support), Article 8/3, Article 8/4 (Personal Assistant) of Law No. 93/2014 "On the Inclusion and Accessibility of Persons with Disabilities".*

Inspections has been carried out at the Hospital Centers relating to the implementation of standards and patient service and a Special Report has been drafted.

According to the right to health care as one of the most important issues of a social state and as an important element of every individual's right to live healthy, in cooperation with non-governmental organizations two reports have been drafted study:

* Study Report on "Health Service in Albania,"
* Study Report on "*Monitoring the Access of People with Disabilities to Public Services in Albania*"

1. **Please provide any information and statistical data (including surveys, censuses, administrative data, literature, reports, and studies) related to the exercise of the right to health of persons with disabilities in general, as well as with particular focus in the following areas:**

* **Availability of barrier-free general healthcare services and programmes, which take into account all accessibility aspects for persons with disabilities;**
* Relating to the lack of access to the physical, social, economic and cultural facilities of persons with disabilities, we have addressed to the Mayors *in order to take measures for achieving the accessibility of public facilities* with the aim to receive services and their integration in social life.
* In some of their responses, they stated that they were committed to implementing the recommendations, taking the necessary measures to build the necessary infrastructure, in order to eliminate the physical barriers for people with disabilities
* Not granting the right to benefit from reimbursement of fuel and lubricant oil costs. Complainants who are persons enjoying the status of paraplegic and tetraplegic disabled have not received the corresponding monthly payment of compensation for fuel and lubricant oil costs.
* The exclusion from the list of free medication for certain specific diseases, where the value of the drug is high and unaffordable for people with disabilities.
* **access to free or affordable general healthcare services and programmes, including mental health services, services related to HIV/AIDS and universal health coverage;**
* Law no. 8098/1996 "On the Status of the blind persons", in the provisions outlined in point 1.
* Law no. 8626/2000 "On the status of paraplegic and tetraplegic invalids" in the provisions referred to in point 1.
* Law no. 7889/1994 "On the Status of Invalids" in the provisions under point 1.
* Law no. 10107/2009 "On health care in the Republic of Albania"
* Law no. 121/2016 "On social services in the Republic of Albania"

**Article 16**

* + - 1. Services in development centers are community services aimed at ensuring and improving the status and quality of life of individuals with disabilities up to 21 years of age.
      2. Types of services provided in development centers are as follows:

1. Intensive psycho-social therapy for mental and social rehabilitation in order to integrate them into the community;
2. psychomotor service for training and improvement of psychological parameters and of fine and global motor;
3. training of physical parameters;

ç) specialized orthopedic services for the training of individuals with autistic spectrum disorders or the ability to communicate;

d) Rehabilitation therapy for work;

dh) Developmental therapy.

* **access to free or affordable disability-specific healthcare services and programmes; and**
* **access to free or affordable health-related habilitation and rehabilitation goods and services, including early identification and intervention.**
* Law No.121/2016 “On social care services in the Republic of Albania”

**Article 14**

* + - 1. Early intervention is an individual social service provided in families, social centers for providing community services or compulsory education institutions and consists of professional and stimulating help for children up to 8 years of age, counseling assistance for parents and members and other family members with a blood relation or for the foster family to reintegrate the child into society.
      2. Early intervention involves referral of a child's case to a specialized social services center, compulsory education institution or medical institution, according to the particular characteristics of the child.

In the educational institutions a visit is made by an ophthalmologist. Also at the moment of enrollment of children in primary education, they should be provided with the decisions of the Medical Commission for their health status and the certification for the vaccination.

1. **Please provide information on discrimination against persons with disabilities in the provision of healthcare, health insurance and/or life insurance by public or private service providers.**

* Lack of statistics for people with severe mental illness. People with severe mental illness do not benefit from social and health services like other categories of people with disabilities. Also, people with disabilities residing in rural areas in many cases do not benefit from these services.
* Special Services for People with Disabilities continue to be problematic. Decentralization of social care services at local government is considered a positive step, but in practice it is still far from being concrete.
* Lack of establishment of residential rehabilitation centers for people with severe mental illnesses
* Lack of provision of hygienic-sanitary packs of persons with disabilities who do not enjoy the Disabled Status of Work.
* Failure of the right to benefit from a disability category of persons who, according to Article 35 of Law no. 7701 dated 11.05.1993 "*On Social Insurance in the Republic of Albania*", revised, do not meet the legal criteria established by the new social insurance law (in the last five years before the right is granted the person has at least 12 months social insurance), despite meeting the medical criteria.

1. **Please provide information on the observance of the right to free and informed consent of persons with disabilities regarding healthcare, including sexual and reproductive health and mental health services.**

* Law No. 10107/2009 “On health care in the Republic of Albania”

**Article 6**

(...)

2. Under this law, citizens enjoy the following rights:

a) to use healthcare services that are part of the mandatory or basic benefit package provided by public health institutions and providers in pursuance of legislation into force;

b) to be informed about the preservation and improvement of health in order to make decisions about their own health and their families;

c) to be informed by health service providers of the characteristics of health services, the manner of their use, their rights, as citizens and patients, for the patient card and medical errors, as well as for their implementation;

ç) to give consent for the health care to be provided;

d) to participate actively, in accordance with the legislation in force, in the programming and implementation of healthcare activities, particularly in respect of the rights of the patient.

* Law No. 44/2012 “On mental health”

**Article 6**

1. People with mental health disorders enjoy:

a) Rights, freedoms and legitimate constitutional interests;

b) the right to obtain affordable and efficient health care services on equal terms as all other patients;

c) the right to treatment and protection, based on respect for their individuality and dignity;

ç) the right to accept or not the proposed diagnostic and therapeutic intervention, except for the other cases provided for in this law;

d) the right to receive the right information about their rights and to be part of the drafting of the individual treatment plan;

dh) the right to claim the compensation of damage caused by the error in treatment or potential mistreatment;

e) the right to seek re-examination of forced or compulsory treatment;

ë) the right to confidentiality of data due to their health status;

f) the right not to be forced to be examined from a medical point of view in order to determine a possible mental health disorder, except in cases and according to the procedure described in this law;

g) the right to ensure the appropriate living, hygienic, nutrition and safety conditions;

gj) the right to complain about the provision of mental health services.

2. The exercise of the rights of persons with mental health disorders may be restricted only to the cases provided for in this Law. These restrictions are in proportion to the dictated health condition and cannot violate the essence of freedoms and rights.

One of the main issues that continues to be a concern for the People’s Advocate Institution is the absence of a final solution for housing in a hospital environment, outside the penitentiary system, of the persons against whom the court has taken the measure of compulsory medication, in compliance with law no. 44/2012 "*On mental health*" and decisions of appellate courts.

The People's Advocate, through periodic inspections in the premises where persons with mental health disorders have been accommodated, has continuously monitored the respect of the rights and standards offered to persons of this category.

1. **Please describe to what extent and how are persons with disabilities and their representative organizations involved in the design, planning, implementation and evaluation of health policies, programmes and services.**

In the periodic meetings of working groups for drafting or improving legislation involving disability organizations as well as people with disabilities, their opinions are given, but their claim stems from the fact that not all their suggestions are taken into account. They express concern that there is no full representation at the National Disability Council of their organizations.