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*Promoting Disability Rights in Albania  
Support Programme on the Convention on the Rights of Persons with Disabilities*

# Assessment Report on conformity of national legislation with Convention on the Rights of Persons with Disabilities

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## **I. INTRODUCTION**

The purpose of this Report is the review of the existing legislation and policy documents to assess their conformity with Convention on the Rights of Persons with Disabilities (CRPD) and identify areas where laws and policies need amendment to ensure compliance with CRPD.

Following a brief overview of the Convention, the Report reviews a series of existing legislation and identifies gaps therein. The next part reviews existing legislation specifically targeting persons with disabilities (Status Laws) and after a review of institutional changes sketches the outline for potential new legislation on persons with disabilities.

### **1. The Basic Concepts of the Convention on the Rights of Persons with Disabilities**

#### **a. Social Model**

Persons with disabilities were for a long time framed as objects rather than subjects and therewith as rights-holders. The objecting of disabilities resulted in a narrowing of exclusion and inaccessibility to a sole emphasis of the impairment, also referred to as the medical model. Towed into that approach, persons with disabilities were looked on as objects of pity who required “help” through charity efforts; this aspect of objectization is also referred to as the welfare based approach to disabilities.

Based on the premise that all human beings have inherent dignity, which entails the enjoyment of all human rights, persons with disabilities are unconditional (human) rights-holders. Subsequently the focus is not on the possible impairment(s) but rather on the constraints that the social fabric builds in hindering access to the enjoyment of rights. In addition to the more obvious physical barriers, this approach focuses on the manifold social, behavioral, stereotype-based barriers that lead to and potentially sustain the exclusion of persons with disabilities.

#### **b. Non-definition of “impairment” or “disability”**

The CRPD does not define impairment or disability. Rather, the Convention provides an open description of what constitutes an impairment. In addition to an open-ended list of medical and/or physical manifestations of impairments – such as long-term physical, mental, intellectual or sensory – but places the emphasis on the barriers, which in interaction between persons with impairments and attitudinal and environmental barriers cause disability.<sup>1</sup>

#### **c. Anti-discrimination, including reasonable accommodation**

The Convention includes a definition of discrimination:

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*“‘Discrimination on the basis of disability’ means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.”*

Note in particular that the denial of reasonable accommodation<sup>2</sup> is an act of discrimination.

#### **d. Inclusion**

The principle of inclusion also connotes the *process* towards a society, which provides equal opportunities for all. The Convention aims at ensuring that persons with disabilities are no longer separated or segregated from mainstream but rather are brought into the mainstream on equal terms with others, with assistance – by personal assistance or other means – where necessary.

#### **e. Accessibility**

Accessibility should be understood in four dimensions: the support for overcoming social barriers such as stereotypes and prejudices, which exclude persons with disabilities from the mainstream. The communications dimension of accessibility, which covers issues such as accessible formats for persons with visual impairments and who are blind, the accessibility for people who have a hearing impairment or a deaf through sign languages and assistance for persons who are non-verbal.

Then there is the intellectual dimension of accessibility: to ensure that documents and information generally are provided in easy to read and easy to understand formats. Finally, there is the physical dimension of accessibility, namely the signage of floors, the width of doorways and the provision of ramps and related adaptations to the physical environment as well as access to goods and services. Note that accessibility is both a principle and a right, covered in Articles 3 and 9 of the Convention respectively. Furthermore, universal design, which is also defined in the Convention, provides guidance on how to ensure that newly designed goods – and services – can be made accessible also for persons with disabilities.

## **2. Albania**

### *CHAPTER II GUARDIANSHIP OF INCAPACITATED PERSONS*

#### *Article 307*

*The court, in a decision removing or limiting the ability to act, shall appoint a guardian for the person whose rights are being removed.*

“The person whose rights are being removed,” is the phrase that Article 307 of the Albanian Family Code uses to aptly describe the current situation of persons with disabilities: their rights – their human rights – can be taken from them. This provision, which is resembled through many other provisions throughout the law, poignantly summarizes the contradictions of Albanian legislation – and policy – with the Convention on the Rights of Persons with Disabilities. From the Convention’s perspective the title of Article 307 merely

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adds insult to injury by using the term “incapacitated persons” or “persons whose capacity to act has been removed or limited.”

This notion is outdated and does not reflect the human rights commitment that Albania aspires to and particularly not the human rights standards it pledges to set for persons with disabilities.

## **II. IMMEDIATE AND PROGRESSIVE STEPS**

As is the case with other core human rights treaties, in particular the Covenant on Economic, Social & Cultural Rights, the economic, social and cultural rights of the CRPD require that Albania “undertakes measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the CRPD that are immediately applicable,” (Article 4 (2) CRPD). Among the core legal obligations, which have to be discharged within the principle of progressive realization, are administrative, financial, educational and social measures, all of which are already subject of ongoing reform processes in Albania. Additionally, the prohibition of anti-discrimination in all pertinent areas, which is already regulated, forms of the ‘minimum core legal obligations’.<sup>3</sup>

### **Non-discrimination**

Accordingly, all measures related to non-discrimination have to be implemented immediately, particularly the Law on Protection from Discrimination has to be enforced swiftly.

### **General Principles**

Additionally, the principles of the Convention (Article 3 CRPD) have to be firmly established within policy and legislation immediately, they are:

- Respect for the inherent dignity, autonomy, including the freedom to make one’s own decisions, and independence of persons;
- Non-discrimination (including “reasonable accommodation”);
- Full and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Equality between men and women; and
- Respect for the evolving capacities of children with disabilities and for the right of children with disabilities to preserve their identities.

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The equality principles seem largely covered by the Constitution as well as the Law on Protection from Discrimination – the challenge of implementing the CRPD will mainly relate to putting the Law on Protection into practice.

The freedom to make one's own choices is very poorly reflected in Albanian legislation – an area where major changes will have to be made cross-cuttingly to ensure compliance with the CRPD, particularly with a view to limiting guardianship and furthering efforts to deinstitutionalize persons with disabilities.

The principle of accessibility is increasingly recognized in Albanian legislation, however, two aspects need to be borne in mind: the concept is not yet understood in its multiple aspects, which also include communicative and intellectual accessibility. Furthermore, it is important to apply this principle across policy areas and make the shift from utilizing accessibility in the context of disability policy only to all policy areas as a cross-cutting principle. Therefore, it is recommended that the principle of accessibility be considered for a future amendment of the Constitution as well as receive focus in the discussion on amendments of Albanian legislation and policy as part of CRPD ratification.

### **Update of Concepts and Terms**

Closely linked thereto is the urgent need to bring terms and concepts of persons with disabilities in line with the models of the Convention. Phrases such as “mental sickness” or “dumb” have no place in laws and policies in a society that aspires to ensure equal rights and dignity for all.

The focus on perceived “deficits” – also described as “Defectology” – and therewith the medical aspects of impairment has to be replaced with an image built on dignity and equal opportunities. Not the impairment but the person has to define this image. Not the perceived inability but the potential need for assistance has to be the target of policy.

Accordingly, the terms used in describing persons with disabilities has to be brought in line with the CRPD and the World Health Organization's standards. This means particularly that the personhood of persons with disabilities has to be the focus – as opposed to the perceived or manifest impairment: the subject – or rights holder – is at the center of policy considerations, not their physical or medical “condition.”

Accordingly, the term “persons with disabilities” should be used when describing people who are perceived to have or who manifestly have an impairment. In line with the social model of disabilities, a distinction should be drawn when referring to the medical aspects – impairment – and to the social aspects – dis-ability and en-ablement. Furthermore, the principles of accessibility and inclusion as well as the freedom to make ones own choices should be connected as much as possible.

Importantly, care has to be taken to ensure that all persons with disabilities are covered in these terms, as the listing of certain impairments risks leaving out some persons with disabilities in need of protection.

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The updating of language also entails a change of perception. Language is one of the strongest forces in changing the perception of people, in moving the imagery of society. Therefore, updating of the language is one – albeit small – important step in raising the awareness about the abilities of persons with disabilities. This conforms with an important provision of the Convention on awareness raising (Article 8 CRPD).

### **Training & Update of Curricula**

Another area where swift steps have to be taken that will produce fast effects without significant resource requirements is training and update of curricula. Particularly the basic training of medical doctors, social workers, teachers (pre-school to tertiary education), health workers, judges, police and architects needs to include training on the basic models of the Convention with an emphasis on the social model and the various aspects of accessibility (social, communication, intellectual, physical, economic).

The principle of progressive realization applies to those areas, where significant resources are required for implementation. The interpretation of this principle states:

*“The concept of progressive realization constitutes a recognition of the fact that full realization of all economic, social and cultural rights will generally not be able to be achieved in a short period of time. In this sense the obligation differs significantly from that contained in article 2 of the International Covenant on Civil and Political Rights which embodies an immediate obligation to respect and ensure all of the relevant rights. Nevertheless, the fact that realization over time, or in other words progressively, is foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the raison d’être, of the Covenant, which is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.”<sup>4</sup>*

### **Legal capacity**

The fundamental shift of the Convention is to ensure that persons with disabilities have to be provided with and safeguarded in exercising their right to legal capacity. While the notion as such can be – and should be – acted upon immediately, the necessary structures that have to follow, will require time to be put in place. The replacement of models of guardianship with models of supported decision making will only be achieved progressively. Both due to economic constraints but much more so due to the change of

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attitudes that is necessary for everyone involved to not only understand that persons with disabilities are to make their own choices but to provide the necessary training and skills to know how to build such supportive models and integrate them into daily life. While the recognition of legal capacity (Article 12 CRPD) will be necessary immediately – it is after all a core principle of the Convention and the most important step in recognizing non-discrimination – the training of people who can assist in the decision making processes will be realized over time. That said, the steps and policy guidance to realize supported decision making have to be put in place swiftly.

### **Personal assistance schemes**

The Convention foresees the equal right to choose where and with whom to live. This entails that support tailored to the needs of persons with disabilities be provided. Models of personal assistance therefore have to be introduced. In a mixture of economic constraints and the necessity to build up such services – which do not exist in Albania yet – as well as the training of staff, this will only be achievable gradually.

The concept of “carer” has overlaps with a personal assistant but is not necessarily the same function. Care usually refers to assistance with physical needs such as washing, bathing, dressing, feeding and related chores. Personal assistance is a broader concept that focuses on enabling a person with disabilities to overcome barriers, by providing a hand or completing tasks that the person with disabilities physically cannot do. A personal assistant provides support also in areas such as decision making or communication assistance.<sup>5</sup>

Importantly, it should be kept in mind that the costs involved in ensuring personal assistance schemes are costs saved in establishing and maintaining institutions for persons with disabilities. Additionally, the model of assistance, which the Convention envisions, provides for assistants who are trained and employed, creating jobs and the revenues that can be derived therefrom.

### **Accessibility of Buildings and Transport**

Ensuring that buildings – both public and private – as well as transportation and roads are accessible is a goal, which will only be realized gradually. However, strict implementation of building codes, which set the necessary criteria for accessibility, both for new buildings and for renovation projects, is paramount. Sanctions have to be significant and they have to be implemented.

The principle of non-discrimination is binding immediately and **it entails that no building, road or means of public transport that is planned inaccessibly**. It is noteworthy that the costs of building accessibly from the start tend to be lower than those buildings that are designed inaccessibly, and obviously costs of reconstruction and adjustments put in place at a later stage tend to be cost intensive.

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### III. STATUTES

The following section highlights the gaps in a variety of Albania's statutes. While care was taken to cover all major legislation, the following does not and cannot claim to be a complete list of those statutes that should be largely amended ahead of Albania's ratification of the CRPD.

#### 1. Constitution

##### *Article 18*

- 1. All are equal before the law.*
- 2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or ancestry.*
- 3. No one may be discriminated against for reasons mentioned in paragraph 2 if reasonable and objective legal grounds do not exist.*

#### **Article 18**

The Albanian Constitution has a good foundation for the protection against discrimination in its Article 18, which states: “(1) All are equal before the law. (2) No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or ancestry. (3) No one may be discriminated against for reasons mentioned in paragraph (2) if reasonable and objective legal grounds do not exist.”

Both the possible accession to the European Union as well as the planned ratification of the Convention on the Rights of Persons with Disabilities will potentially necessitate the amendment of the scope of protection:

- a. The Article, while comprising a number of grounds of discrimination, does not foresee a savings clause such as **“other status.”**
- b. The Article leaves out a number of recognized ground of discrimination, most prominently **persons with disabilities.**

#### **a. Other Status**

The European Union recognizes the need for explicit protection for a number of grounds of potential discrimination, which include religion, persons with disabilities, gays and lesbians in particular. The most pertinent EU framework directive<sup>6</sup> requires legislation protecting particularly persons potentially discriminated based on these criteria.

This is one reason, why the **list of grounds of discrimination may have to be expanded and a savings clause – “other status” – should be added.**

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## b. Persons with Disabilities

In line with the Convention on the Rights of Persons with Disabilities, it will be necessary to give persons with disabilities the strongest legal protection that the national legal system can offer, to ensure that a solid basis is established to facilitate the full and effective enjoyment and therewith the accessibility of all human rights for persons with disabilities.

Therefore, the amendment of Article 18 Albanian Constitution has to **include persons with disabilities as potential victims of discrimination** based solely on their impairment.

As the Convention enshrines the **social model of disabilities**, namely that disability also results from the **interaction** between persons with impairments and **attitudinal** and environmental barriers that hinder the full and effective participation of persons with disabilities,<sup>7</sup> it is strongly recommended that this approach serve as the model to any amendment making reference to persons with disabilities and impairments respectively.

The social model is a departure from previous approaches to persons with disabilities, which focused on the “missing leg”, were based on pity and offered welfare rather than taking into account the person, the rights of every individual and the removal of – particularly societal – barriers. Also, the social model allows to work particularly against the process of stigmatising and labelling of persons far more effectively, as the focus on the person lays bare the surrounding social fabric. Also, persons with disabilities are among those human beings who, more often than not, encounter **multiple and therewith aggravated forms of discrimination**.

## 2. Law on Protection from Discrimination, Law Nr. 10 221

### *Article 1 Object*

*This law regulates the implementation of and respect for the principle of equality in connection with gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, education or social situation, pregnancy, parentage, parental responsibility, age, family or marital condition, civil status, residence, health status, genetic predispositions, restricted ability, affiliation with a particular group or for any other reason.*

### **Article 1**

The provision expressly recognizes “restricted ability” as a ground of discrimination. The English translation lends itself more toward the medical model but it is the technical assistants understanding that the Albanian version appears in conformity with the Convention. The saving’s clause “other reason” is of great importance, see also the discussion of Article 18 of the Constitution, above.

Importantly, the saving’s clause should be read to include the “attitudinal and social” barriers, which persons with disabilities face and against which the CRPD seeks to protect persons with disabilities and which need to be reduced in line with the Convention’s provisions.

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*Article 3*  
*Definitions*

7. *“Denial of a reasonable accommodation” is that form of discrimination that happens whenever there is a denial of or objection to making essential and appropriate regulations or changes that are necessary in a particular case and do not impose an excessive burden, for the purpose of assuring the enjoyment and exercise, on an equal basis, of the fundamental rights and freedoms for persons with restricted ability or which occurred in other conditions mentioned in article 1 of this law.*

**Article 3**

The coverage of “discrimination due to association” is a particularly noteworthy feature, also in light of potential discrimination of carers, personal assistants and other people who support persons with disabilities.

The definition of “reasonable accommodation” is a good starting proposition. The Convention – Article 2 – refers to adjustments necessary that are not a “disproportionate or undue burden,” whereas the Discrimination Law refers to not imposing an “excessive burden.” It would seem that the Discrimination Law imposes a higher threshold, as the lack of justification appears slightly lower for an “undue” burden vis-à-vis an “excessive” burden. That said, this distinction could be due to translation from Albanian to English: “undue” and “excessive” can be used interchangeably in terms of language.

The scope of those entitled to “reasonable accommodation” appears appropriate as the phrase “in other conditions mentioned” equates to a saving’s clause. The term “conditions” obviously has a medical connotation; the term “reasons” would seem more appropriate.

*Article 5*  
*Prohibition of discrimination*

2. *The denial of adaptations and modifications that are appropriate and necessary for persons with restricted ability constitutes discrimination.*

**Article 5**

The terminology in para 2 – “adaptations and modifications” – seems inconsistent with “reasonable accommodation”.

*Article 9*  
*Participation in politics*

*Discrimination in the exercise of the right to vote, to be elected and to be appointed to a public duty for the causes mentioned in article 1 of this law is prohibited*

**Article 9**

This is an important area in terms of reducing stigma attributed to persons with disabilities: ensuring that persons with disabilities can exercise their right to vote also requires that attitudinal and social barriers, perceived concepts about the (in)ability of persons with disabilities are removed.

**Chapter V**

Institutional aspects regarding the Convention’s implementation are discussed below.

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### 3. Civil Code

#### Article 4

*Civil rights of a natural person cannot be limited, except as provided by law.  
Any legal action placing limits to the legal capacity of a natural person is invalid.*

#### Article 4

The provision is the starting point for possible limitations of legal capacity, which raises issues with regard to Article 12 CRPD on recognizing legal capacity as well as the capacity to act for all persons with disabilities.

#### Article 9

*The minor of fourteen to eighteen years, who is unable to look after his own affairs because of mental illness or mental underdevelopment, may be taken away of his legal competence to perform legal transactions upon a court decision. These transactions may be performed only by his legal representative.*

#### Article 9

The limitation of legal capacity is problematic, also the concepts of “mental underdevelopment” and “mental illness” are reminiscent of the so called medical model, which the CRPD seeks to replace with the new bio-psycho-social model. Based on the model a variety of factors contribute to the construction of disability: biological (medical) factors but much more so psychological factors – such as emotion, self-esteem – and social factors, particularly the (re)action of people around through openness or stereotypes, stigma and other discriminatory behavior.

#### Article 10

*The adult who by reason of mental illness or mental underdevelopment is completely or partially unable to look after his affairs, may be taken away or limited the legal competence ly has not the capacity to care for his own affairs because of a physic disease or mental illness can be deprived of or there can be placed limits to the capacity to perform legal transactions by the decision of court.*

#### Article 10

As in Article 9 the provision contradicts the recognition of legal capacity as well as the bio-social-model of the CRPD.

#### Article 82

*The person who does not know, or because of diseases, or mental diseases cannot sign, charges another person to do it. The signature of this person must be verified by the notary, explaining the reason for which the person has not signed himself the legal transaction performed by himself too. For the acts in the bank or other credit institutions, in the post or customary offices, the signature of this person is verified by an official authorized by these institutions.*

#### Article 82

The provision refers to “diseases” and in particular “mental diseases”, which stands in contrast to the bio-psycho-social model of the CRPD. Also the phrase “person who does not know, or because of diseases or physical impairments cannot sign, charges another person to

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do it” assumes a lack of capacity to act for persons with disabilities, which stands in contrast to the principle of making ones own choices – where necessary with assistance from a support person or support group. While some of the limitations of Article 82 may be necessary, the current wording appears to be too sweeping and in need of clearer limitations.

#### Article 94

##### *Legal transactions declared as invalid*

*Annulled are considered the legal transactions which are valid until the court, by the request of the interested, declares them invalid. Such ones are legal transactions performed by:*

- a) Infants over age of fourteen, when the juridical transaction is performed without the assent of parent or tutor.*
- b) Persons who because of mental diseases or defects have no capacity to act or it is taken off, when the legal transaction is performed by them without the assent of the protector.*
- c) persons who at the moment of performance of the legal transaction were not conscious of importance of their acts, besides the fact that at that time there was not taken off the capacity to act.*
- d) person who has committed a legal transaction being defrauded, threatened, who has mistaken or because of great necessity.*

*The annulment of these acts can be demanded even after the death of respective person, but only when before death was demanded the abolition of the capacity to act.*

#### Article 94

The provision does not conform with Article 12 CRPD and uses language describing persons with disabilities that does not conform with the Convention.

#### *Heir unable to work*

##### *Article 371*

*Heirs unable to work are those who at the time of death of the person leaving the inheritance have not completed sixteen years, or eighteen years when they continue studies, males who have completed sixty years and females who have completed fifty-five years, as well as, regardless of age, those of the first and the second group who are disabled.*

#### Article 371

The provision excludes persons with disabilities entirely, assuming that they are unable to work, which contradicts the Convention. The provision assumes that having an impairment automatically means that one is not capable of working, whereas the Convention holds that there is a right to work with assistance, if necessary. Thereby the Convention seeks to ensure that persons with disabilities can work on an equal basis with others: the right to work can be enjoyed at the same level provided that there is no discrimination and that assistance – in the work place and generally – is provided to those who need it either through technical measures, e.g. computer programs or technical devices or personal assistance by way of a support team or a personal assistant, e.g.

#### *Will by notarial document*

##### *Article 397*

*The will by notarial document is edited by the notary and is signed by the person leaving the inheritance in the presence of the notary.*

*When the person leaving the inheritance does not know how to sign his name, or due to illness of physical handicap cannot sign, the will is signed in conformity with the rules set forth in the law “On Notary”.*

#### Article 397

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The referred Act on Notaries will require evaluation for conformity with the Convention.

*Article 409*

*The will is invalid when disposition by will is made under the influence of deceit, threat or violence, or while mentally ill, without which the person leaving the inheritance would not have made such a disposition*

**Article 409**

The provision appears too sweeping and should be refined to conform with more modern language as well as the rights of the Convention on equal treatment before the law. Specifically care needs to be taken not to assume medically based notions of intellectual and psycho-social impairment, which sweepingly denies legal capacity and the capacity to act. Rather one needs to carefully assess the assistance needs that a person may have and provide support accordingly in order to conform with ensuring that persons with disabilities can exercise their legal capacity on an equal basis with others.

*Damage caused by minors and the physically and mentally handicapped*

*Article 613*

*Minors less than 14 years old, and the physically and mentally handicapped, are not liable for the damage they cause.*

*Parents, tutors, or persons who supervise the unable people, are liable for the damage caused by illegal actions of children below 14 years of age, of the persons under their tutorship, and of persons under their supervision and with whom they live apart when they demonstrate that they could not avoid the damage caused.*

**Article 613**

The provision is too sweeping and the terms used to describe persons with disabilities are outdated. Assuming that the provisions on legal capacity and therewith guardianship will be changed to conform with the Convention, the rules pertaining to liability will also need to be reviewed accordingly.

*Article 959*

*On the termination of the agency contract, the principal should pay to the agent a commission in the measure and when:*

- *the agent has found new clients for the principal or has notably developed the agreements with the existing clients and the principal has still considerable profits deriving from the agreements with these clients;*
- *the payment of this commission is said to be suitable when all occasional circumstances have been kept into account, especially the commission that the agent loses from the agreements with these clients.*

*A commission is not paid when:*

- *the principal dissolves the contract for reason of a non-fulfillment attributed to the agent, which for reason of its measures, does not permit even the temporary pursuance of the agreement;*
- *the agent withdraws from the contract except in case when the withdrawal is justified from the circumstances as regards to the position of the agent like for example the age, temporary disability or any illness for which in a reasonable way would not be asked the continuation of activity;*
- *according to an agreement with the principal, the agent gives to a third party the rights and obligations that he has from the contract of agency.*

*The measure of the commission cannot be larger than the annual amount of the commission calculated on basis of the annual average of the commissions that the agent has received during the last five years. If the contract is less than five years then the calculation is done as to the average of this period.*

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*The award of the commission does not deprive the agent from the right of the indemnity for damages.*

*The agent loses the right of indemnity provided for in this article if he gives notice to the principal for its demands within one year from the interruption of the agreement.*

#### **Article 959**

The term “temporary disability” should be used in line with the Convention and may require further revision as the amendments for conformity with the Convention are made.

Specifically, the Convention uses the term “long-term” impairment – Article 1 CRPD – and it appears that some clarification is in order as to how the term “temporary disability” meets the non-definition used in the Convention. Possibly the term “temporary” is more conducive, where the Convention suggests maintain the standard – Article 4 para. 4 CRPD.

### **4. Civil Procedure Code**

#### *Article 27*

*The Albanian language is used in all trial stages.*

*Persons, who do not know Albanian language, use their own language. They receive knowledge on the evidence and for the whole development of the trial through the interpreter.*

#### **Article 27**

The provision on “The Albanian language is used in all trial stages. Persons who do not know Albanian language, use their own language,” is not sufficiently clear in terms of people who use assistive devices because they are non-verbal and also leaves some room for improvement for people who are deaf or hard of hearing and use a sign language interpreter. Increased clarity of the provision is thus recommended.

#### *Article 33*

*No lawsuit can be initiated by a person who lacks juridical capacity to act.*

#### **Article 33**

The provision refers to persons who lack the capacity to act, this will require adjustment in light of Article 12 CRPD on legal capacity.

### **5. Criminal Code**

#### *Article 17*

*Irresponsibility because of the person's mental state*

*A person does not bear criminal responsibility if, at the time of the commitment of the act, he suffered from psychic or neuropsychic disorders ruining his mental balance entirely and, consequently, was unable either to control his actions or omissions, or to understand the criminal act he was committing.*

*A person is responsible if, at the time of commitment of the criminal act, he suffered from psychic or neuropsychic disorders which lowered his mental balance [and capacity] to understand and fully control his actions or non-actions, but this circumstance will be considered by the court when deciding on the degree and the kind of punishment.*

#### **Article 17**

The terminology used is outdated and does not conform with the bio-psycho-social model of the Convention. Also, the planned amendments to the Mental Health Law may require adjustments to the terms used.

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#### Article 103

*Sexual and homosexual intercourse with persons unable to protect themselves*

*(Amended by Law No. 8733, date 24 January 2001, article 19)*

*Commission of sexual or homosexual intercourse, profiting from the physical or mental incapacity of the victim, or from putting him into an unconscious state, is punished by five to ten years of imprisonment.*

*If the sexual or homosexual intercourse is committed in collusion with others, or repeatedly, or if serious consequences are caused to the health of the victim, it is punished by seven to fifteen years of imprisonment.*

*If the offense results in the death or suicide of the victim, it is punished by ten to twenty years of imprisonment.*

#### Article 103

The terminology “mental inability” needs to be brought in conformity with the CRPD.

#### Article 114/a

##### ***Exploitation of prostitution under aggravated circumstances***

*(Added by Law No. 8279, date 15 January 1998, article 2, point 6 and last paragraph amended by Law No. 8733, date 24 January 2001, article 29)*

*When exploitation of prostitution is committed:*

- 1. with minors;*
- 2. against some persons;*
- 3. with persons within close consanguinity, in-laws or custodial relations or by taking advantage of an official rapport;*
- 4. with deception, coercion, violence or by taking advantage of the physical or mental incapability of the person;*
- 5. against a person that has been forced or coerced to exercise prostitution out of the territory of the Republic of Albania;*
- 6. from criminal organizations; is punished from 7 up to 15 years imprisonment and with the confiscation of all means and profits*

#### Article 114a

The criminalization of violence against persons with disabilities is important and should possibly be strengthened, however, the terminology “mental incapability” needs to be brought in line with modern concepts.

#### Policies

Persons with disabilities are particularly vulnerable to become victims of **violence** and other forms of physical and psychological harm. It is important that policies create awareness about the increased risks of persons with disabilities and support measures to ensure that protection of persons with disabilities can be increased.

### 6. Criminal Procedure Code

#### Article 8

*Use of Albanian language*

- 1. In all stages of the proceedings the Albanian language shall be used.*
- 2. Persons who do not know Albanian shall use their mother tongue and, by assistance of an interpreter, enjoy the right to speak and to be informed of the evidence and acts and of the conduct of the proceedings.*

#### Article 8

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The provision on Albanian language could be improved to ensure that those people who understand Albanian language but cannot speak it, have their rights protected. This applies as much to deaf and hard of hearing persons, who may use a sign language interpreter as to non-verbal people and others who use “alternative modes of communication” such as assistive computers, speech-programmes and other technical devices.

#### *Article 43*

##### *Verifications on the responsibility of the defendant*

- 1. When there are reasons to believe that due to mental sickness caused after the occurrence the defendant is not able to participate consciously in the proceedings, the court shall order, even ex-officio, the expertise.*
- 2. During the expertise is continuing, the court, upon request of the defence lawyer, assumes the evidence which may lead to the innocence of the defendant and, when the delay brings danger, any other evidence requested by the parties.*
- 3. When the necessity of the definition of the responsibility arises during the preliminary investigations the expertise is ordered by the prosecutor, ex-ufficio or upon request of the defendant or his defence lawyer. Meanwhile, the prosecutor carries on only the actions, which do not require the conscious participation of the defendant. When the delay brings danger, there may be assumed evidence only in cases provided for the incident of the proof.*

#### **Article 43**

The English translation “mental sickness” seems inappropriate and indicates that the language needs to be updated to conform with the models and concepts of the CRPD as well as World Health Organization language.

#### *Article 44*

##### *The suspension of the proceedings due to irresponsibility of the defendant*

- 1. When it results that the mental conditions of the defendant hinders his conscious participation in the proceedings, the proceeding organ decides the suspension of the proceedings, but still when it must not be decided the acquittal or cessation. By the decision of the suspension the proceeding authority appoints a special tutor to the defendant, who are given the rights of a legal attorney.*
- 2. The decision of the suspension is subject to appeal in the Court of Cassation from by the prosecutor the defendant or his defence lawyer.*
- 3. The suspension does not hinder the proceeding authority to acquire evidence which may lead to the acquittal of the defendant and, when the delay brings danger, any other evidence requested by the parties. In the actions which must be carried on about the personality of the defendant and also in those that the defendant is entitled to be present his special tutor shall participate.*

#### **Article 44**

“Mental conditions” is a term that implies a medical model and that seems outdated, new language may possibly also be found in the draft Mental Health Law. The role and purpose of the “special tutor” should be specified in line with the Convention as someone who provides support for the defendant.

#### *Article 45*

##### *Revocation of the decision of suspension*

- 1. The decision of suspension is revoked when it results that the mental condition of the defendant allows his conscious participation in the proceedings or when the defendant must be found innocent or the case must be ceased.*

#### **Article 45**

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See Article 44.

*Article 46*

*Compulsory medical measures*

- 1. In any case that the mental condition of the defendant indicates that he must be treated, the court decides, even ex-officio, the hospitalisation of the defendant in a psychiatric institution.*
- 2. When it is decided or it must be decided the compulsory medical measure for the defendant, the court orders that the defendant is preserved in the psychiatric institution.*
- 3. During the preliminary investigation the prosecutor asks from the court to decide the hospitalisation of the defendant in a psychiatric institution and, when the delay brings danger, orders the temporary hospitalisation until the court renders the decision.*

**Article 46**

The provision seems to allow the court to take a decision by itself to order the hospitalization of a person with psycho-social impairment in a psychiatric hospital. The CRPD would require that such decisions are taken based on the consent of the person with disabilities, i.e. a psycho-social impairment and are supported by a multi-disciplinary team, not just lawyer and not just medical doctors, and that provisions are made to ensure that the best interest of the person with psycho-social impairment are paramount. Also, the link to appeal proceedings could be added here and cross-references to such proceedings could be strengthened.

*Article 107*

*The participation of the deaf-dumb and deaf and dumb  
in the making of procedural acts*

- 1. When the deaf, dumb and deaf and dumb want or must give explanations, this is made as following:*
  - a) The deaf are made the questions and forewarning in writing and he shall answer orally.*
  - b) The dumb are asked the questions and the forewarning orally and he replies in writing.*
  - c) The deaf and dumb are presented the questions and the forewarning in writing and he replies in writing.*
- 2. In case the deaf, the dumb or the deaf and dumb are not able to read or write the proceeding authority shall appoint one or more interpreters selected amongst the persons who have the skill to communicate with them.*

**Article 107**

The wording used is highly problematic and stands in stark contrast to the models underlying the Convention. In addition, the provision implies certain limitations for persons who are deaf, hard of hearing or have intellectual impairments, which would limit their right to equal treatment before the law as enshrined in the Convention. The CRPD would suggest that measures are taken to assist persons with disabilities, particularly those who face communication barriers, such as hearing impairments and intellectual barriers, which require easy-to-read formats and easier-to-understand language. Therefore, the provision should broadly enshrine the right to be assisted by means of communication assistance, e.g. sign language interpretation and easy-to-understand interpreters, to ensure that the right to equal access to the law can be enjoyed on an equal basis with others.

*Article 108*

*The witnesses in the procedural acts*

- 1. There may not be witnesses for the certifying of the content of a procedural act:*
  - a) Juveniles up to fourteen years old and the persons who evidently are mentally sick or who are in a serious state of drunkenness or poisoning by drugs and psychotrops.*

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*b) Persons under precautionary measures.*

#### **Article 108**

The phrase “evidently mentally sick” should be revised to conform with the CRPD, the draft Mental Health Law could possibly provide guidance.

#### *Article 123*

##### *The appointment of the interpreter*

*1. The defendant who does not know the Albanian language is entitled to free assistance by an interpreter in order to understand the accusation and to attend the actions he participates in.*

*By means of the interpreter he is obliged to make a written statement admitting he does not know the Albanian language.*

*2. The proceeding authority shall also appoint an interpreter when a writing into a foreign language must be translated.*

*3. The interpreter is also appointed when the court, the prosecutor or the officer of the judicial police do know the language to be translated*

#### **Article 123**

As stated under Article 8, the formulation lacks the clarity to provide for those people who understand Albanian but use alternative modes and means of communication, which use Albanian language. It would also seem advisable to add the element of “choice” to the provision to ensure that persons can choose their interpreter as sign language interpretation and assistance for non-verbal communication are also dependent on a certain level of trust, the likelihood of which may be increased by allowing the person to make a free choice.

#### *Article 124*

##### *Incapacity and the incompatibility of the interpreter*

*1. There may not exercise the task of an interpreter:*

*a) the juvenile, the one who is prohibited to translate, the one who is incapacitated, the mentally sick, the one who is prohibited or suspended the exercise of public duties and profession;*

*b) the person under precautionary measures;*

*c) the person who may not be asked as a witness, the one who has been summoned as a witness and as expert in the same process or in a process connected with this.*

*Nevertheless, in case a deaf, a dumb or a deaf and dumb is asked the interpreter may be selected by their relatives.*

#### **Article 124**

The terms used are outdated, “incapacitated”, “mentally sick” and particularly “dumb” are terms that do not conform with a human rights based approach, which seeks to ensure the dignity of all.

#### *Article 155*

##### *Capacity to give evidence*

*1. Anyone, except those who are not able to testify because of their mental or physical disability, has the capacity to give evidence.*

*2. When the evaluation of the statements needs the verification of mental and physical capacity to give evidence, the court even ex-officio can order for necessary verifications to carry.*

#### **Article 155**

The limitation of the capacity to provide evidence is too broad, too sweeping in its current form. The Convention clearly states that all persons with disabilities have to be guaranteed their right to legal capacity and the exercise of this right. This aspect needs to be

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strengthened here, also the terminology used – should references still be necessary – needs to be brought in line with modern concepts.

*Article 180*

*Incompatibility in the assignment of the expert*

1. *There may not carry on the duty of an expert, by sanction of nullity:*
  - a) *the juvenile, the one who has a legal obstacle or is incapacitated or suffers from a mental sickness*
  - b) *the one who is suspended, even temporarily, from public duties or from the exercise of the profession*
  - c) *the one who has been imposed individual precautionary measures*
  - ç) *the one who may not be interrogated as a witness or to be cited as an interpreter or has the right to not give evidence or to not translate.*

**Article 180**

The terminology, in particular “mental sickness” needs to be brought in line with the Convention.

*Article 239*

*Temporary hospitalisation in a psychiatric hospital*

1. *When the person to be arrested is mentally sick and because of this reason he has been limited or lost the capacity of understanding or conscience, instead of detention, the court may order his temporary hospitalisation in a psychiatric institution imposing the necessary measures to prevent the eventual escape.*
2. *The hospitalisation may not continue when it results that the defendant is no longer mentally sick.*

**Article 239**

The provision is problematic in that it does not conform with modern terminology, lacks the multidisciplinary nature of proceedings and does not state clearly that the best interest of the person concerned is paramount. I.e. active measures have to be taken to ensure that the rights of the person are at the center of any action taken and that adequate support is provided to enable the person to restore self-representation.

*Article 264*

*The prolongation of the detention period*

1. *In any stage and instance of the proceedings, when it has been ordered the expertise of the mental condition of the defendant the time-limits of the detention shall be prolonged for the time provided for the completion of expertise. The prolongation is decided by the court, upon request of the prosecutor, after the defence lawyer being heard. The decision may be appealed directly or indirectly to the Court of Cassation.*
2. *During the preliminary investigations the prosecutor may demand the prolongation of timelimits of detention which are about expiring, under important necessity of security and the examinations specifically complex require such a prolongation. After hearing the prosecutor and the defence lawyer the court renders a decision. The prolongation may be repeated only once and may not exceed one month.*
3. *The duration of detention may not exceed the half of the maximum provided for the criminal offence under proceedings.*

**Article 264**

The terminology should be brought in line with modern language, the draft Mental Health Law may offer some guidance on the matter. A reformulation should seek to provide

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limitations in the way the psycho-social impairment is used, ideally with a clear reference to the principle of anti-discrimination. It could be helpful to state that the expertise requires the involvement of a multi-disciplinary team.

*Article 339*

*The publicity of the hearing*

- 1. The hearing shall be public otherwise it shall be null and void.*
- 2. Juveniles under sixteen and those who are drunk, intoxicated or mentally disordered shall be not allowed in the hearing.*
- 3. It is prohibited the presence of armed persons in the hearing, except members of public order forces.*

**Article 339**

The terminology as well as the implications of barring persons with intellectual impairments from hearings counter the Convention's right to have equal access to justice, which includes the right to listen to hearings.

## **7. Family Code**

*Article 12*

*A person who suffers from a mental illness or lacks the mental capacity to understand the nature of marriage cannot enter into matrimony.*

**Article 12**

The provision sets limitations in terms of legal capacity as well as in terms of the right to marry and found a family, this violates Articles 12 & 23 CRPD respectively.

*Article 13*

*A guardian and a ward under their supervision may not enter into matrimony during the time the guardianship is in effect.*

**Article 13**

The provision refers to guardianship, which needs to be replaced in accordance with Article 12 CRPD. Guidelines and possibly legal provisions for the relationship between those supporting persons with disabilities in decision making and the person should ideally follow general – that is mainstream – legal provisions rather than creating separate rules.

*Objections to concluding a marriage*

*Article 20*

*Parents and, in their absence, other antecedents and relatives up to the third degree, may oppose the marriage for any cause which violates the conditions of this Code for concluding marriage.*

*The spouse of a person who wants to conclude another marriage, as well as a guardian, if one of the spouses has been placed under guardianship, has the right to object to the marriage.*

*The prosecutor also has a right to object to the marriage for the reasons stated in this law allowing him/her to request its invalidation.*

**Article 20**

The role of the guardian contradicts the emphasis the Convention places and the rights it enshrines on the legal capacity of persons with disabilities. Again, guardianship as a basic concept is not compatible with the CRPD.

*Article 35*

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*A marriage concluded by a person suffering from a grave mental illness or with impaired mental development so as to make him/her incapable of understanding the scope of the marriage, is void.*

#### **Article 35**

The terminology used to describe persons with disabilities is outdated, more importantly, the restriction stands in contrast to Article 23 of the Convention.

#### *Article 47*

*When a spouse has been declared legally incompetent, a petition for the invalidity of the marriage can be made by their guardian.*

#### **Article 47**

The provision appears too sweeping to be in conformity with the Convention, possibly the formulation could be refined to be more precise in terms of “capacity” that could lead to the annulment of the marriage, if any.

#### *Dissolution of marriage based on the request of one spouse*

#### *Article 132*

*Either spouse can request the dissolution of marriage when, due to continuous quarrels, maltreatment, severe insults, adultery, incurable mental illness, lengthy penal punishment of the spouse or due to any other cause constituting repeated violations of marital obligations, a joint life becomes impossible and the marriage has lost its purpose for one or for both of the spouses.*

#### **Article 132**

Also in line with the new Mental Health Law modern terminology should be inserted in the place of “incurable mental illness,” provided that such impairments exist, which would justify the course of action without contradicting the CRPD, a matter that would require discussion among psychologists, psychiatrists and other stakeholders, including persons with disabilities and their representative organizations.

#### *The right of a guardian to petition for divorce*

#### *Article 141*

*When the spouse has become incompetent or for other reasons a guardian has been appointed on their behalf, the petition for the dissolution of the marriage may be submitted by his/her guardian.*

*If the defendant spouse is under guardianship, the guardian shall represent the defendant/spouse in the dissolution proceedings.*

*If the guardian of the defendant/spouse is the plaintiff/spouse, the court shall appoint a special guardian to represent him/her in the proceeding for the dissolution of the marriage.*

#### **Article 141**

The provision assumes the guardianship model, which contrasts the CRPD.

#### *Opposition to presumed paternity*

#### *Article 184*

*A man, who according to article 180 of this Code is presumed as the father of the child, can oppose the paternity of the child.*

*A claim opposing paternity should be filed against the child, who is represented by the mother. If the mother is incapacitated and the child is a minor, a special guardian shall be appointed by the court.*

*The right to file such a claim terminates after one year from the date that the man had notice of the birth of the child.*

#### **Article 184**

The provision assumes “incapacitation”, which neither as a term nor as a concept is compatible with the Convention.

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#### Article 245

*A person cannot adopt when:*

- a) their parental responsibility has been removed by the court;*
- b) they are affected by a psychiatric disease or have defective mental development or when they are affected by a disease that could endanger the health and life of the adoptee; they cannot guarantee the performance of their parental responsibilities for the care and education of the adoptee.*

#### **Article 245**

Para (b) needs to be revised in terms of terminology but also in terms of scope: the current provision is too broad and sweeping to conform with the CRPD. Limitations have to be in line with anti-discrimination provisions, importantly the right to adopt may not be limited solely based on a perceived or existing impairment/disability.

#### Article 267

*If the parent who has custody of the child did not designate a guardian, the court must give priority for the selection among antecedents, the relatives of the minor, a foster family and, as a last alternative, a public or private institution.*

*Before a judge appoints a guardian, they must hear from the selected person and take into account the opinion of the minor, if they are at least 10 years of age.*

*The court, in any case, should take into consideration the opinion of the social assistance and services department at the municipality or commune where the court proceedings occur, the results of an examination of the personality development of the child in the family, education and social context and the examination of the conditions and compatibility of the child with the proposed guardian, foster family or care institute.*

*The appointment of a guardian should take into consideration the qualities of the guardian, foster family or care institution, pursuant to the third paragraph of this article, and after hearing the opinion of a psychologist, who must be present during the proceedings.*

#### **Article 267**

The provision is noteworthy – the guardianship for children as such is in line with international standards – for the link made to the opinion of social workers, which is a welcome link toward the multi-disciplinary composition of decision making that the Convention foresees. Furthermore, it is noteworthy that the provision makes reference to the “social context,” which needs to be taken into account – also an important element to assess the situation and particularly the assistance needs of persons with disabilities.

### CHAPTER II

#### GUARDIANSHIP OF INCAPACITATED PERSONS

##### Article 307

*The court, in a decision removing or limiting the ability to act, shall appoint a guardian for the person whose rights are being removed.*

##### Article 308

*Guardianship provisions for minors are also applied for the guardianship of persons who have been declared incompetent, except for cases as otherwise noted in this Code.*

##### Article 309

*A guardian of the person who has been declared totally incompetent represents and manages their property in the same manner as a parent represents and manages the property of a minor who has not reached 14 years of age.*

*A guardian, for a person of limited capacity, gives consent and manages their property in the same manner as a parent gives consent and manages the property of a minor who has reached 14 years of age.*

##### Article 310

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*A guardian of an incompetent person is obligated to take care of the person and particularly their medication.*

*Article 311*

*A minor who has reached the age of fourteen and is under parental responsibility, who has been declared incompetent, is not appointed a guardian, but continues to remain under the care of the parents, in the same manner as a minor who has not reached the age of fourteen. When the minor reaches the age of majority and remains incompetent, the court shall appoint a guardian for him/her, which may be one of the parents or another person.*

*Article 312*

*If a minor, who was under guardianship, has reached the age of fourteen and been declared incompetent, the court shall appoint a new guardian or may allow the current guardian to continue in their position.*

*Article 313*

*Guardianship of an incompetent person terminates when a court determines that their competency has been restored.*

**Chapter II – Guardianship for Incapacitated Persons Article 307 – 313**

The entire section – chapter – is in stark contradiction to the core rights, principles and values of the CRPD in that it denies the right to legal capacity.

It needs to be limited significantly and the choice of words needs to be revised completely. It is strongly advised that a broad discussion is sought to rework this part of the Family Code, importantly persons with disabilities and their representative organizations as well as other stakeholders, including social workers and people with experience in supported decision making need to be part of that discussion.

## **8. Labour Code**

### **PROHIBITION AGAINST DISCRIMINATION**

#### *Article 9*

*Changed by law no. 8085, date 13.03.1996*

*(1) Any kind of discrimination in the field of employment or profession is prohibited.*

*(2) With discrimination is meant any differentiation, exclusion or preference based on race, color of skin, sex, age, religion, political beliefs, nationality, social origin, family relation, physical or mental disability, threatening the individual right to be equal in terms of employment and treatment. Differentiation, exclusion or preferences required concerning a particular job are not considered to be discriminating. The special protection measures in favor of the employees, which are provided for by this Code or the Decision of the Council of Ministers or collective contracts, are not considered to be discriminating.*

*(3) With employment and occupation are meant vocational orientation and education, giving of work and exercising of different professions as well as employment conditions related to the distribution of labor, job performance, remuneration, social aid, discipline or termination of the employment contract.*

#### **Article 9**

The anti-discrimination provision is basically very good. It is suggested that the terminology be brought in line with both the Law on the Protection from Discrimination and the CRPD.

### **THE PRIORITY OF THE RIGHT-RELATED NORMS**

#### **CHAPTER IV**

#### *Article 11*

*Changed by law no. 8085, date 13.03.1996*

*Changed by law no. 9125, date 29.07.2003*

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*(1) The rights and obligations concerning labor relations are regulated in order of priority by the following sources:*

- a) The Constitution of the Republic of Albania.*
- b) The international conventions ratified by the Republic of Albania.*
- c) This Code and its sub-legal acts.*
- d) The collective contract of employment.*
- e) The individual contract of employment.*
- f) The interior regulations.*
- g) The local and occupational customs.*

*(2) The sub-legal acts are designed to complement and implement the provisions provided for by this Code.*

*They may determine employment conditions for the employees, which are less favorable than those provided for by this Code, only when this is explicitly defined in the latter.*

*(3) Any provision going beyond the complementing and implementation of this Code is invalid. However, valid are only those provisions that improve the employer's position.*

*(4) The employee cannot give up his own rights stemming from the mandatory provisions of this Code or of the Collective Contracts of Employment. Valid will be the agreements that are concluded in the presence of the labor inspector, or in the form as defined by the Collective Employment Contract, which, based on reconciliation, aim to avoid a conflict through mutual toleration freely accepted by both parties.*

*(5) Occupational customs are applied only in absence of legal provisions, of provisions included in the agreement, contract, and when the legal provisions refer to the occupational customs explicitly.*

## **Article 11**

The applicability of international treaties – which would include the Convention on the Rights of Persons with Disabilities – is positively noted.

### **ARRANGING OF WORKPLACE**

#### **Article 45**

*(1) Workplace, in all its constituent parts, must be adapted to the nature of work to be carried out there.*

*(2) The surface and space of the workplace must be sufficient for the employee so that he/she can carry out his/her job in complete safety and without hindering circulation in the environment.*

*(3) Installment of machines and equipment as well as storage must not hinder circulation or occupy any space where work is done.*

## **Article 45**

The provision on arrangement of the workplace could be a fitting entry point to add reasonable accommodation, assistance in the workplace and related measures to ensure that persons with disabilities can exercise their right to work on an equal basis with others. It could further be utilized to anchor personal assistance schemes related to the work place.

### **E. ANNUAL VACATIONS**

#### **DURATION**

#### **Article 92**

*Changed by law no. 9125, date 29.07.2003*

*(1) The duration of the annual vacations with pay is defined by the collective contract or by the individual contract of employment.*

*(2) The duration of the annual vacations is not less than 4 calendar weeks during the continuing year of work.*

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*(3) When the employee has not completed a full year of work, the duration of the annual vacations with pay is defined in relation to the duration of labor relations. The periods of temporary disability to work are considered as working time.*

#### **Article 92**

The meaning of “temporary disability” in Para (3) is not sufficiently clear. As mentioned above<sup>8</sup> the term “temporary disability” is not used the CRPD, it used the term “long-term”; also, shifting the focus from the perceived inability to work to the assistance needs to enjoy the right to work will result in a different paradigm for this provision.

#### **SICKNESS**

##### **Article 130**

*Changed by law no. 9125, date 29.07.2003*

*(1) When the employee cannot work because of sickness, the employer will pay him/her 80 per cent of the wage for a period of 14 days, which is uncovered by Social Insurance (Article 23, point 1 and Article 25 of the Law No 7703, dated 11.05.1993, “On Social Insurance in the Republic of Albania”).*

*(2) The employee proves his/her disability to work through a medical report issued by a doctor. Upon the request of the employer, the employee is obliged to become subject to examination by another doctor assigned by the employer; this doctor will declare only the disability of the employee to work, keeping the medical secret.*

*(3) If there is an incompatibility between the viewpoints of the employee’s doctor and those of the doctor assigned by the employer, the employee must become subject to an expertise that will be trusted to a doctor assigned by the Labor Inspectorate.*

*(4) The employee loses the rights against the employer when the former unjustly refuses the verification of his/her disability to work.*

*(5) When the sickness is a consequence of serious negligence on the part of the employee, on the basis of an agreement between the parties, the right to wage is simplified or completely abrogated. In the absence of an agreement, the court will define this right.*

#### **Article 130**

The provision on sickness and the determination of a potential temporary impairment may require adjustment in terms of the process used, assessment through multi-disciplinary teams as well as streamlining with other amendments that may be set in place as part of bringing legislation in compliance with the CRPD.

### **9. Employment Promotion Law**

The Law in its intentions is in line with the Convention’s aim of providing for inclusive employment. There are a few suggestions and entry points:

#### *Neni 2*

##### *Percaktime*

*16. Me termin “Person me aftesi te kufizuar”, nenkuptohet personi mundesite e te cilit per te gjetur dhe mbajtur nje vend te pershtatshem pune, jane zvogeluar ne menyre te ndjeshme si rezultat i aftesise se kufizuar te tij per pune, e deklaruar kjo me vendime te komisioneve mjeksore perkatase sipas kritereve te vendosura me legjislacionin ne fuqi.*

#### **Article 2**

The definition of “disabled person” needs to be brought in line with the CRPD.

#### **CHAPTER II**

##### **STATE EMPLOYMENT POLICIES**

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#### Article 4

*4. To achieve such objectives, the state employment policies shall be implemented through the delivery of:*

- a) Active labour market programs and projects;*
- b) Vocational training;*
- c) Vocational retraining and other forms of support for the employment of the disabled persons, and*
- e) A support system of income for the unemployed.*

#### **Article 4**

It could help to clarify that “other forms of support” include measures of assistance within the meaning of Articles 19 & 27 CRPD.

### CHAPTER IV

#### THE EMPLOYMENT OF THE DISABLED PERSONS

##### Article 14

##### *Vocational Retraining*

- 1. The vocational retraining services shall be accessible to all disabled persons upon the condition that they may be qualified for them and have reasonable perspective for the finding and keeping of decent work.*
- 2. The principles, modus operandi and the methods of the vocational qualification that are generally implemented in the qualification of the non-disabled persons shall be implemented in the case of disabled persons for as long as their medical and educational conditions allow.*
- 3. The state shall take all the necessary possible and practical measures to establish within the frame of the employment offices the specialised services of vocational training for disabled persons seeking assistance for the selection and changing of their work.*
- 4. The ministry shall control the implementation of this Article.*

##### Article 15

##### *Obligations of Employers for the employed disabled persons*

- 1. Every employer that employs more than 24 employees shall be obliged to employ a disabled person for every 25 employees of his/her staff.*
- 2. An employer may employ a person who suffers serious handicaps instead of 5 persons with a less serious handicap. The Ministry shall define the terms that a person is defined as suffering serious handicaps.*
- 3. The State Labour Inspectorate shall control the implementation of this Article.*

##### Article 16

##### *Incentives for the employment promotion of disabled persons*

- 1. The employer may ask for a subsidy from the competent employment office to adequately equip the work place of a disabled person and provide him/her with a fundamental work preparation. The detailed rules shall be defined by the ministry.*
- 2. The salary paid by an employer to a disabled person shall be exempted by the taxes in the amount defined by the Council of Ministers.*
- 3. An employer who fails to employ the recommended number of the disabled persons, as per Article 15, shall be obliged to pay to a special account in the National Employment fund an amount equal to the minimal wage for every month and every person that he/she was supposed to employ an disabled person and that he did not. This income shall be used to create work places for the disabled person.*
- 4. The Council of Ministers shall define the rules for the implementation of the aforementioned paragraph of this Article.*

#### **Article 14-16**

The provisions are in line with the CRPD’s right to work, Article 27; albeit that the terminology could be adjusted to conform more with the concepts used in the Convention.

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Importantly, the sanctions foreseen – payment to the National Employment Fund – should be substantially increased to create a significant penalty. Furthermore, this part of the provision needs to be implemented strictly, possibly some adjustments need to be made to ensure that.

*Article 21*

*The obligation to report*

*4. Every employer shall separately report on the job vacancies for disabled persons. In his/her report, the employer shall define the terms of age, education, vocational qualifications or skills are required by the position.*

**Article 21 (4)**

This provision should be fitted with a sun down clause, in the mid-term it is not compatible with the concept of inclusive employment.

**10. Vocational Training Act**

*Article 4*

*Definitions*

**Article 4**

It is recommended to add personal assistants per Article 19 CRPD to the definition.

**11. Non-Profit Organizations Law**

*Article 5*

*The Principle of Protection and Respect for Human Rights*

*Non-profit organizations base their activity on the principle of respecting, protecting and implementing the fundamental human rights and freedoms provided in the Constitution, laws and international agreements ratified by law.*

**Article 5**

It is curious that the State obligations to “respect, protect and implement” are so directly attributed to Non-governmental organizations. The duty of the State to promote, protect and ensure the implementation of the CRPD is enshrined in Article 1 thereof.

**12. Law on Legal Aid**

*Article 7*

*The criteria for the appointment of the Commission’s members and of the Commission’s Chairman*

*1. Member of the Commission may be appointed any person who:*

*b) Has full capacity to act and intend;*

**Article 7 (1)(b)**

The requirement should be fitted with a sundown clause in conformity with changes that will have to be made to ensure that all persons with disabilities can exercise their legal capacity in accordance with Article 12 CRPD.

**13. Mental Health Law (1996)**

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The 1996 Law is outdated, not the least in its use of the term “retarded.” It is understood that a revision is underway and that it is the aim to have the new Mental Health Law conform with the CRPD.

Importantly, the new law needs to draw careful lines around the issue of health care protection and the usage of restraining measures, i.e. psychiatric treatments, as these are very likely to violate the standards set out in the Convention.

Deliberations of the Mental Health Law need to take account of the International Classification of Functioning, Disability and Health (ICF) of the World Health Organization. It is paramount that persons with disabilities and their representative organizations are involved in the drafting process.

## **14. Measures against Violence in Family Relations**

### *Article 3 Definitions*

#### **Article 3**

The definitions should also include carers and assistants.

### *Article 16 The hearing for protection orders*

*d. The representative of the social services department at the municipality or commune of the temporary or permanent residence of the petitioner when the petitioner is younger than 18, when the petitioner is legally incapacitated or when the domestic violence affects these categories/persons*

#### **Article 16**

The term “incapacitated” needs to be replaced with more modern terms, if at all.

## **15. Draft Law on Pre-University Education**

### *Chapter XII Children with special needs Article 76*

#### *Mission and principles of education for children with special needs*

- 1. In compliance with the mission and objectives of the pre-university education system, provided for in the present Law, the education of children with special needs aims at fully developing the individual's potentials, helps improving the quality of their living through preparing them for a full integration into the society and work.*
- 2. Inclusion and mainstreaming of children with special needs in the kindergartens and schools of the basic education general system is primary. The attendance of specialized education institutions is generally temporary.*
- 3. In the pre-school and basic education institutions, the curriculum elaborated and implemented for pupils with special needs is personalized in accordance with the physical, mental, emotional and social development of the pupil.*
- 4. The personalized programmes for pupils with special needs in the general education institutions are elaborated by an institution's commission composed of teachers of different teaching areas, psychologist and an external specialist for children with special needs. In*

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*order for an adequate programme to be implemented, it is indispensable to involve even the parents during its conception.*

5. *The ministry, in cooperation with the units of the respective local government, ensures the education of children with special needs either in the common education institutions or in the specialized ones.*

#### *Article 77*

##### *Assessment Commission*

1. *The Assessment Commission is established within the local education unit and is composed of physicians, psychologists, teachers, specialists for children with special needs, social workers. Parents have the right to participate in the commission's discussions on their own child.*
2. *The Assessment Commission, based on the criteria established by the Ministry of Education and Science and the Ministry of Health, designates the kind of pre-school institution and that of basic education to be attended by a child with special needs. Depending on the Commission's estimation, a child with special needs starts the first class as from six to nine years old and is allowed to attend the basic education till the age of 19 years old. The Assessment Commission designates the children with special needs to be included in the school obligation and those to be enrolled upon parents' wish in the education institutions. Upon parents' request the Commission decides for a child to start the basic education at five or at seven years old.*

*The other tasks of the Commission are assigned by Minister's sub-laws.*

Chapter XII – Articles 76 & 77 of the draft – were unofficially translated for this report and seem to be in conformity with the Convention's obligations as set out in Article 24 – inclusive education. Particularly the multi-disciplinary assessment and the balancing of parent's opinions with those of experts are a welcome move in the right direction. Obviously, the principle of inclusion as the primary goal is in keeping with one of the Conventions core rights and principles.

## **16. Law on Social Assistance and Services**

### *ARTICLE 4*

*In the meaning of this law:*

3. *"A person with disability (PAK)" is an individual who has become disabled due to physical, sensory, intellectual, psychic-mental impairments, either congenital or developed in the course of life as a result of accidents and temporary or permanent diseases, which are not related to employment.*

#### **Article 4 (3)**

The definition of persons with disabilities needs to be expanded to reflect the social aspects of the non-definition contained in the CRPD. The Convention does not provide a definition as such it rather gives an open-ended description. The formulation places an emphasis on social barriers, which exclude persons with disabilities, such as stereotypes, stigma and related discriminatory behavior. The "interaction with various barriers"<sup>9</sup> such as "attitudinal and environmental barriers,"<sup>10</sup> need to be reflected in the definition of the Law.

## *CHAPTER II*

### *BENEFICIARIES OF SOCIAL ASSISTANCE AND SERVICE*

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## Chapter II

The aim of this part of the law is to provide economic assistance for persons with disabilities. Given the current situation of persons with disabilities in Albania, the short term economic prospects of the country and the various challenges ahead, it is understood that for a substantial number of persons with disabilities, these benefits will be the primary source of income and provision for living.

That said, the Convention seeks to create an inclusive society, where persons with disabilities, by way of participation and inclusion can achieve an adequate income through inclusive work. As measures such as inclusive education garner momentum, more persons with disabilities will be able to provide for themselves and the focus of policies in this area will gradually shift from providing benefits to enabling persons with disabilities through accessible services and particularly personal assistance schemes.

At this point in time it would be premature to suggest that the regulation, particularly the emphasis it places on benefits, be changed in any way. However, it should be clear – and possibly added to the Law – that the goal is to progressively realize inclusion of persons with disabilities that makes them self-reliant independent members of Albanian society on an equal basis with others.

### ARTICLE 8

*The beneficiaries laid down in point 1, 2, 3 of Article 7 of this law, who by decision of the special commissions are defined as persons who need care, are also entitled to a paid carer.*

#### Article 8

The concept of carer should be interpreted to also cover “personal assistance”<sup>11</sup> in line with the Convention: Article 19.

### ARTICLE 11

1. *The disability benefit shall be given in the form of a monthly instalment in Lek. The amount of payment for these individuals and for their carers shall be determined by decision of the Council of Ministers.*
2. *The beneficiaries laid down in Article 7 of this law, classified by decision of the Medical Commissions on Disabilities as belonging in the second disability category, shall no longer be entitled to disability benefits upon their employment.*

#### Article 11

It is suggested that a clause is added to ensure that those persons who once were entitled to the disability benefit and whose employment ends have swift access to a reinstatement of their disability benefit.

### ARTICLE 13

1. *Social care services comprise services delivered to individuals, families or groups in need, to communities, as specified in Article 6 of this law, for meeting their basic living needs.*
2. *Socio-medical care services are delivered by specialized personnel in residential re-integration and rehabilitation centres, in day centres or at home, for individuals who are incapable of living a normal life due to temporary or permanent deteriorations of their physical, psychic, mental, or sensory state.*

#### Article 13

The term “normal life” seems inadequate.

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#### ARTICLE 15

1. *Residential care services are delivered to individuals for whom it is impossible to provide home care. Placing them at social care centres shall be done with their consent or with the consent of their legal representatives following the assessment of their social, economic, and medical condition.*
2. *Community care services are provided at daily centres, individual homes, or foster care families, according to the specific needs of beneficiary groups.*

#### **Article 15**

The provision is based on guardianship models and would need to be amended in line with the provisions on guardianship, particularly in the Family Code.

The provision refers to “individual homes,” which is a good starting point for compliance with Article 19 CRPD.

#### ARTICLE 20

*3.The application and the documentation for qualifying for disability payments shall be submitted to the Social Administrator in the local government units. The criteria for benefiting disability payments shall be determined by decision of the Council of Ministers.*

#### **Article 20 (3)**

The criteria referred to need to be brought in line with the Convention, particularly the assessment has to allow for compliance with the bio-psycho-social model.

#### ARTICLE 35

*1.The Ministry of Labour and Social Affairs shall plan the funds for the economic assistance package and for disability benefits in compliance with the assessment of the requests received by the local government units. The transfer of the funds shall be done once every two months to the municipality or commune.*

*2.The criteria and indicators used for planning the economic assistance package shall be proposed by the Minister of Labour and Social Affairs and approved by decision of the Council of Ministers.*

#### **Article 35**

The provision is a reminder that data and statistics on barriers to inclusion, persons with disabilities and assistance needs need to be improved in order to provide adequate funds.

### **17. Order No. 362 for adopting the rules on medical criteria for evaluation of disability**

The order operates with outdated models of impairment, in particular the deficit-oriented model of disabilities. The World Health Organization provides for an updated model, the bio-psycho-social model, which takes into account the factors that disable persons with disabilities, particularly social and attitudinal barriers as prescribed in the CRPD. The International Classification of Functioning, Disability and Health (ICF)<sup>12</sup> is currently being prepared by the World Health Organization’s Albania Office in Albanian language.

The model used in the ICF needs to form the basis for rewriting the criteria – which explicitly cannot just be medical – of assessing the assistance needs of persons with disabilities. Importantly, the focus has to shift away from documenting perceived deficits to determining what level and which kind of assistance persons with disabilities require.

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The first part of that process is to do away with the medical criteria and completely revise Order No. 362 in accordance with the ICF. This process has to involve not only medical doctors but also psychologists, social workers and those with experience in assessing assistance needs, including physiotherapists and occupational therapists. Furthermore, the revision has to involve persons with disabilities and their representative organizations.

The second major part of revision will have to replace the current Medical Commissions by introducing multi-disciplinary commissions, which are instructed based on the ICF and focus on determining assistance needs in a practical sense, i.e. assistive devices and possibilities of receiving support from a personal assistant or carer respectively.

Given the current situation of persons with disabilities and the above-mentioned economic constraints that the country faces in providing for an adequate amount of opportunities for inclusive employment of persons with disabilities, the revised Commissions will also be placing an emphasis on assessing economic needs of persons with disabilities. That said, the instructions and orders should clearly set out the goal of the Convention in providing for practical assistance and stress the long-term aim to shift the focus to those matters.

The fundamental changes that are required in the area of assessment will necessitate significant training of those involved in the revised Commission, among others.

## **18. Standards on Social Services**

The Standards are largely up to standard and in line with the CRPD.

It is not sufficiently clear what the term “persons in need,” in Chapter II.II.1.a. means though, it could be a bit more precise.

The emphasis placed on human rights, autonomy, and capacity enhancement are core principles of the Convention and its implementation.

As the Standards refer to international agreements already ratified by Albania, a revision should appropriately add the CRPD.

## **19. Standards of Social Care Services for People with Disabilities**

The standards are in line with the CRPD. It is positively noted that the term “support” is used as a key term and key method.

## **20. Determining the Level of Contributions for persons placed in public and private social care institutions**

It is understood that the payments made by persons living in care institutions do not necessarily go to the benefit of that institution, it is suggested to review that policy.

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## **21. Decision No. 542 Approval of the Statute of the State Social Service**

### **Article 5**

In line with the support and assistance approach of the Convention, it is suggested that these aspects are added to the duties. Possibly the aim of the support, namely the increased participation of persons with disabilities, could appropriately be added here.

### **Article 6**

The provision makes a reference on “other social players,” in Para (e), it is suggested to explicitly add persons with disabilities and their representative organizations to comply with Article 4 (3) CRPD.

### **Article 8**

It is positive that persons with disabilities and their representative organizations are already part of the administrative council. To increase compliance with the CRPD, it would be helpful to add further members from that group.

## **22. Decision No. 512. Procedures for Conducting the inspection of economic assistance, disability benefits and social services**

The overall goal of social services could be refined here to add the assistance and support dimension, per the suggestions to Decision No. 542, Article 5.

Importantly, some of the inspection duties seem to overlap with the monitoring provisions in Article 16 (3) CRPD, see below for the discussion on the National Preventive Mechanism.

## **23. Decision No. 617. Establishment of Indicators of Evaluation and Monitoring of Programs of Social Assistance, Disability Allowance and Social Services**

The Decision could be significantly improved by adding the aspects of Article 31 CRPD on “data and statistics,” in particular by mandating the collection of data on barriers of exclusion and obstacles to inclusion.

Importantly data collection for persons with disabilities need to be fundamentally revised to ensure that the numbers are closer to those in the region. This would enable better planning and budget allocation, among others.

In adjusting data collection and statistics in line with the Convention, the work of the Washington Group on Disability Statistics should be utilized for guidance.<sup>13</sup> Particularly the suggested questions on health issues should be taken into account:

1. Do you have difficulty seeing, even if wearing glasses?
2. Do you have difficulty hearing, even if using a hearing aid?
3. Do you have difficulty walking or climbing steps?
4. Do you have difficulty remembering or concentrating?

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5. Do you have difficulty (with self-care such as) washing all over or dressing?
  6. Using your usual (customary) language, do you have difficulty communicating, (for example understanding or being understood by others)?

#### **24. Instruction No. 2474 on Implementation of Decision 617.**

It is recommended that indicators for accessibility, particularly physical access, but also for support services such as personal assistance are added to the assessment tables.

#### **25. Law Concerning the Protection of Child Rights**

The first part of the law reflects some of the General Principle of the CRPD on the evolving capacities of children with disabilities (Article 3 CRPD). However, the first part does not explicitly refer to children with disabilities, other than in the anti-discrimination clause in Article 4. Rather, a stand-alone provision has been added further toward the back of the law, Article 24. It is recommended, also in keeping with mainstreaming techniques, to bring the rights of children with disabilities closer to the front, possibly by adding the principles of inclusion and accessibility to the definitions part in Article 3 of the Law.

##### **Article 36**

The National Council for Child Protection needs to be informed of reviewing the rights of children with disabilities as a cross-cutting issue and not solely through Article 24 of the Law. Furthermore, coordination between the Council for Child Protection and the various institutions, which will work on the implementation and monitoring of the Convention, needs to be ensured.

##### **Article 45**

The Commission for Children's Rights can possibly take on some of the tasks set out in Article 33 (2) CRPD on monitoring the Convention. At the least, coordination is strongly recommended.

#### **26. Law on Gender Equality in Society**

The Law discusses disabilities only in the context of employment (Article 17 & 19) and in the consequences of care-taking of family members with an impairment (Article 9). This is surprising in that Albania was recently encouraged to step up its efforts in mainstreaming the needs of girls and women with disabilities by the Committee on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>14</sup>

It is strongly recommended that the suggested mainstreaming, based on Article 3 (g) and Article 6 CRPD be implemented. In particular, the definitions section of Article 4, Article 8 on temporary special measures, and a provision on multiple and aggravated forms of discrimination, including disability and impairment could be added.

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## **27. Law on Social Programs Concerning Housing of Inhabitants in Urban Areas**

### **Article 5**

In line with special measures (Article 5 CRPD) as well economic accessibility – affordability respectively – the provision is principally in conformity with the Convention. The description of beneficiaries, however, has to be brought in line with changes made to various laws discussed above.

## **28. Other Legislation**

As stated above the legislation cannot be reviewed in its entirety. There are a number of areas, which would particularly warrant further scrutiny, particularly in terms of regulations that are part of laws that do not immediately come to mind in terms of accessibility and inclusion criteria. The following areas are highlighted without claiming to constitute an exhaustive or specifically prioritized list:

- **Media Law**

Accessibility requirements, including subtitles and sign language but also audio description, should be added to laws and regulations for media entities. This also concerns the accessibility of web content and other new media by compliance with accessibility standards.

- **Intellectual Property**

Care should be taken to ensure that intellectual property laws do not unnecessarily create barriers in terms of technical and communications access for persons with disabilities, including formats that are also available for blind people.

- **Data Protection**

Protection of data is vital to everyone. As a result of the often patronizing behavior toward persons with disabilities, the care for the protection of data of persons with disabilities is usually less than for others. Data protection laws should include a clause on the need to ensure that the same standards are applied for persons with disabilities.

- **Personal Assistance / Care Services**

The support for independent living of persons with disabilities through personal assistance schemes will only be introduced gradually in Albania. However, the model of personal assistance, particularly taking account of the role of personal assistants, should be mainstreamed throughout policies and legislation, well beyond the realm of social policy legislation, e.g. transportation regulations.

- **Building Codes**

From conversations it is clear that the building codes are in conformity with international standards on physical accessibility. However, it appears that the sanctions foreseen for violations of the building codes are firstly too low to create real pressure to comply and are secondly not implemented forcefully enough to ensure actual compliance in buildings. This is of paramount importance for public buildings, including administrative buildings, hospitals, schools and police stations, e.g.

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- Rehabilitation Center

Currently, Albania does not have the adequate facilities for rehabilitation and habilitation of patients as well as of persons with disabilities. This gap needs to be redressed speedily to ensure that persons with disabilities can access support fast and assist patients who need rehabilitation support in receiving the appropriate treatment.

- Election Codes

Per the Convention political processes, including elections, have to be accessible to persons with disabilities. This concerns the accessibility of the polling stations, the voting process, the election ballots as well as the information about the election process. Importantly, measures need to be taken to ensure that persons with disabilities can join the political process as candidates and elected members of various constituencies.

- Cultural Life

The encompassing area of regulations on cultural life needs to be reviewed for compliance with the Convention. This includes physical access to cultural sites as much as programmes designed for persons with disabilities.

- Sports and recreation

Similarly to cultural life, the regulations around sports and recreation need to comply with the Convention. A meeting discussed the overall approach of the Ministry in charge and noted that regulations are being put in place in accordance with the CRPD.

- Statistics & Data Collection

While some aspects of data collection and statistics are covered in the above mentioned decisions of the Ministerial Council, a more thorough review of data collection and statistics to ensure that obstacles to inclusion and barriers creating exclusion can be better verified as well as a better understanding of the situation of persons with disabilities generally can be generated.

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### III. STATUS LAWS

In Albania the protection of persons with disabilities specific rights varies significantly according to the impairment. While the provision in the Social Assistance and Services Act provides a pretty comprehensive definition of persons with disabilities – it still needs to be revised to comply with the Convention, see above – this does not mean that legally and factually persons with disabilities are all provided with the same level of protection and support in Albania.

Status laws have been put in place over the years, which provide specific support and also benefits for persons with disabilities with a certain impairment, e.g. blind and vision impaired and para- and tetraplegics.

In addition the Commissions set up to assess the impairment and therewith the “status” of persons with disabilities seem to have guidelines that are somewhat selective in the impairments that are considered to amount to a disability within laws and regulations and generally the approach taken leans heavily on medical approaches to disabilities, which runs a high risk of overlooking some of the assistance needs that applicants may have.

The combination of these facts leads to a high variation in the protection of persons with disabilities and to a significant amount of inequality within the group of persons with disabilities. Understandably those who already enjoy a certain amount of protection want to – and need to – retain that. Equally understandable those who do not enjoy such protection want to attain it.

The range of challenges starts with those who are not necessarily protected by Article 4 of the Social Assistance and Services Act and goes all the way to questions surrounding the necessary untangling of overlaps with groups such as the work invalid, many of whom will come under the protection of the Convention but who cannot be assumed per se to be persons with disabilities.

In untangling the status-quo, two principles are suggested:

- **Participation of persons with disabilities:** there needs to be a broad debate with those concerned, including those who are currently not covered by the broadest protection of the law. This includes people with sensory impairments, such as Autism, people who are hard of hearing or deaf, persons with intellectual impairments, people who use prosthesis, including mine victims, people who have communication assistance needs, including non-verbal persons as well as persons with psycho-social impairments. Obviously, those persons recognized in the current status laws have to be included in these discussions, too.
- **Twin-track approach:** the idea of the Convention is to mainstream the maximum of the rights of persons with disabilities throughout legislation and to limit those issues that need to be dealt with specifically to a minimum. It is strongly recommended that this approach be applied in moving the provisions from the Status Laws into

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mainstream legislation – thereby also creating awareness – and to bring together the common issues of all persons with disabilities that require specific law in one piece of legislation. Obviously, transitory and other measures will need to be put in place to ensure that no established rights and entitlements are forgotten.

To illustrate the suggested approach, the Status of Blind Persons:

*ARTICLE 1*

*This law shall apply to all persons who are fully or partially sighted, who were either born with the condition or acquired it later in life and who, according to medical criteria, are incapable of working in normal conditions.*

**Article 1**

Needs to be made more general and apply to all persons with disabilities, possibly in an Act on the Rights of Persons with Disabilities

Furthermore, recognition of disabilities in Article 18 of the Constitution could be helpful in furthering this goal.

*ARTICLE 2*

*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:*

- a) Creation of suitable living conditions, living area and provision of ordinary and special equipment;*
- b) Priority employment and favorable conditions, determining occupations protected by law;*
- c) Re-employment of those blind persons who, for various reasons, have either been dismissed from work or have lost their job and who, in the meantime, receive a payment established by the Council of Ministers;*
- 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 2**

- (a) needs to be mainstreamed into housing provisions
- (b) this is covered in the Employment Promotion Law
- (c) this is covered in various provisions, including the Employment Promotion Law
- (d) needs to be mainstreamed into health care law

*ARTICLE 3*

*The State shall protect the blind from all types of exploitation, discrimination, abuse, insult, and ridicule. When these amount to a criminal act, the responsibility to start legal proceedings rests not only with the carer, but also with the prosecutor's office and the organization they are part of or that takes care of them.*

**Article 3**

Is covered in the Law on Protection from Discrimination.

*ARTICLE 4*

*The blind shall be exempt of all direct taxes and tariffs, with the exception of cases when they have a private business as legal persons.*

**Article 4**

This would need to be broadened to apply to all persons with disabilities and be moved into finance/budgetary regulations.

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#### ARTICLE 5

*Regardless of the other benefits received from the state, the blind receive an additional blind person's benefit the amount of which is determined by the Council of Ministers, which is not calculated as family income for purposes of poverty statistics. The same amount shall also be received by the blind person's carer, who they are entitled to chose themselves.*

#### **Article 5**

The benefit appears to cover assistance needs, this applies to all persons with disabilities who require assistance and should accordingly be moved to a general provision on assessing and providing personal assistance in line with Article 19 CRPD.

#### ARTICLE 6

*In addition to the criteria established in Law No. 7995, dated 20.9.1995 "On Promoting Employment", private or public legal persons who employ blind persons, shall benefit from a tax benefit equal to the percentage of blind persons employed by them.*

#### **Article 6**

This appears to be covered in the Employment Promotion Law.

#### ARTICLE 7

*Territory planning committees and town planning bodies shall not endorse any road or public area project if these have not taken into account the necessary and possible adjustments for the blind. The State shall care of the housing of blind persons, by ensuring that the blind persons of the first group, or people of equal status to them, are provided with a room of greater cubature than normal and the necessary adjustments in relation to physical conditions. The National Housing Entity covers the expenses for the purchase and adjustment of the blind person's abode.*

#### **Article 7**

It is understood that these measures are covered in the accessibility criteria of the building codes, if those are deemed insufficient it is strongly recommended that they be updated in line with this provision.

#### ARTICLE 8

*Education of blind persons in the state education system shall be free of charge, while their admission to normal education shall follow special criteria set by the Ministry of Education. While attending secondary, graduate or post-graduate studies and during any training period, blind persons shall receive a benefit established by the Council of Ministers. Those with a post-graduate degree shall receive this payment for life. The Council of Ministers shall take measures and allocate funds for setting up schools and institutions for the education, training and rehabilitation of blind persons.*

#### **Article 8**

This appears to be covered in the new pre-university law. While the maintaining of special schools for the blind appears opportune at this time, the goal in line with the Convention has to be the full inclusion of blind persons – with necessary assistance - in mainstream schools.

#### 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. The Ministry of Health and Protection of the Environment shall determine the list of auxiliary equipment.*

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## Article 9

This provision needs to be moved to the general health insurance provisions.

### ARTICLE 10

*The Council of Ministers shall take measures and allocate funds for the construction of two mountain and seaside holiday centers with sufficient capacity to accommodate all the blind persons in Albania. The centers shall be managed by the Association of the Blind of Albania and subsidized by the state to the degree established by the Council of Ministers. With regard to leisure and entertainment, the state shall also support cultural activities of blind persons as well as afford them free entry to arts and culture centers.*

## Article 10

This provision needs to be revised in light of rehabilitation needs of all persons with disabilities. While maintaining a separate facility could be favoured at this point, the overall goal is to provide rehabilitation facilities for all people, including persons with disabilities. The lack of a rehabilitation center was already mentioned above.

### ARTICLE 11

*Blind persons and their carers shall have the right to travel free of charge on urban transport, and pay half price intercity fares, both on private and public operators.*

## Article 11

This provision would need to be expanded for all persons with disabilities and be placed in a more general law on transportation. In the mid-term with growing job opportunities for persons with disabilities this kind of benefit should ideally be phased out.

### ARTICLE 12

*All blind persons unable to move without a carer and in a physical condition classified as first invalidity group, shall be provided with a telephone. They shall pay a concessionary first level telephone tariff, established upon entering into effect of this law and are exempted from other tariffs; the differences shall be paid by the state. All blind persons, pursuant to article 1 of this law, shall pay 20 per cent of the value of monthly electricity consumption; the differences shall be paid by the state.*

## Article 12

This provision needs to be placed in the more general communications and telephone regulation. The applicability for persons with other impairments will have to be reviewed accordingly, in line with anti-discrimination considerations.

### ARTICLE 13

*The state shall protect and support the Association of the Blind of Albania.*

*The state shall recognize its active role in the protection of rights and interests of blind persons by treating it as a consultative party in the development of laws and sub laws and for the solution of problems faced by blind persons.*

*The state shall fund activities of the Association of the Blind of Albania, in compliance with the financial resources allocated to this purpose.*

*The state shall provide the Association of the Blind of Albania with office space for their use both in the capital and in the districts.*

## Article 13

The first part of the provision is covered by the regulations on associations.

The second part of this provision is covered, among others, by Article 4 (3) CRPD, which creates the same obligation.

The third part would seem to apply to various areas, e.g. cultural, sports and others.

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The fourth part on office space would ideally be moved to legislation on NGOs, however, ensuring office space for all non-governmental organizations may prove hard to achieve in terms of budget. Reconsideration of the importance of this clause by the Association of the Blind of Albania is suggested.

*ARTICLE 14*

*No organization shall have the right to disclose information about the invalidity state of a person without the prior consent of the latter.*

**Article 14**

This needs to be mainstreamed into general data protection regulations.

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## **IV. INSTITUTIONS**

### **1. Focal Points and Coordination Mechanism Article 33(1)**

The Convention explicitly foresees fora, which will ensure adequate coordination of measures taken to implement the Convention. In addition to focal points – which ideally should be established at the federal and district level – the Convention also foresees the establishment of a coordination mechanism. Both the focal points as well as the coordination mechanism have to involve representatives of civil society (Article 4(3) and Article 33 CRPD).

The National Council on Disability would seem to be the body best situated to fulfill the task of coordination mechanism. It is established and appears ready to take on such a task. Importantly, it has a good representation of persons with disabilities and their representative organizations among its members. As a trend is emerging to involve civil society beyond membership – through consultancies and public meetings – it is recommended to review the future work of the Council with a view to engage the public, particularly persons with disabilities further.

As the implementation of the Convention gets underway, the Council will also need to strengthen its coordination with other bodies, such as the monitoring body below.

### **2. Monitoring Body Article 33(2)**

The Convention foresees that a body be created or an existing body be adequately expanded to take on the responsibilities to “promote, protect and monitor” the implementation of the Convention. The CRPD recommends that this happen in accordance with the standards set for independent human rights mechanisms, namely the principles relating to the status and functioning of national institutions for the protection and promotion of human rights, i.e. Paris Principles.

Albania already has a National Human Rights Institution, compliant with the Paris Principles, the People’s Advocate.<sup>15</sup>

It is understood that the monitoring task for the CRPD is to be vested with the Commissioner for Protection from Discrimination (Chapter V, Law on the Protection from Discrimination). This is also a political decision, which the technical adviser respects as such.

In accordance with the Convention, the Commissioner would be advised to take on the following tasks and competences, also in line with existing ones per Article 32 of the Law on the Protection from Discrimination:

Monitor the domestic implementation of the Convention on the Rights of Persons with Disabilities by:

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- promoting and protecting the human rights of persons with disabilities;
  - advising the legislature, the government, the administration – particularly the focal points and coordination mechanism – and the judiciary;
  - compile reports to the legislature, the government, the administration and the judiciary;
  - issue independent recommendations on all questions related to the promotion, implementation and monitoring of the Convention;
  - assess the legal and administrative rules in force as well as corresponding practice and issue recommendations for amendments and improvements;
  - compile statements on draft legislation and decrees;
  - recommend new legislative and administrative rules to increase conformity with the Convention;
  - examine data and statistics;
  - contribute to the awareness raising and sensitisation of the public, also through public relations work;
  - collaborate with schools, universities, other educational institutions, medical, social and other relevant institutions;
  - cooperate with institutions, agencies and bodies nationally and internationally, foremost with representatives of civil society, particularly with persons with disabilities and their representative organizations, to include them in the monitoring process;
  - cooperate in particular with the focal points and coordination mechanism established in accordance with Art. 33 Para. 1 of the Convention;
  - cooperate with the independent authorities, which are to effectively monitor all facilities and programmes designed to serve persons with disabilities in order to prevent the occurrence of all forms of exploitation, violence and abuse (Art. 16 Para. 3 Convention);
  - cooperate with any entities that work on the Convention's implementation at the local and district level, in accordance with Art.4 Para. 5 of the Convention;
  - cooperate with agencies related to the Convention abroad, in particular with other monitoring committees under Art. 33 Para. 2 of the Convention as well as the Committee on the Rights of Persons with Disabilities (Art. 34 Convention), to which it will need to report as required;
  - inform the public of monitoring related issues, as it sees fit;
  - examine complaints from individuals

Should Albania ratify the Optional Protocol, the Commissioner should have a role in assisting those who wish to file a complaint in accordance with the Optional Protocol.

### **3. Monitoring against Torture & Violence - Article 16 (3)**

The Convention also foresees protection against violence and torture for persons with disabilities through “independent authorities,” (Article 16 (3) CRPD). The competences necessary to discharge this mandate are similar to and overlap in major parts with those of the independent national preventive mechanism (NPM) under the Optional Protocol on the Convention Against Torture (OP-CAT).

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Albania has established a NPM by way of the law on the treatment of those sentenced to imprisonment and detainees, Article 74. It would appear that the institution set up to and tasked with the national prevention of torture would be fit to take on the tasks prescribed in the Convention on the Rights of Persons with Disabilities.

It is recommended that the resources of the NPM are revised to ensure that they are sufficient to take on the task. Furthermore, training for the NPM staff should be provided as part of the expansion of its duties.

According to Decision No. 512. Procedures for Conducting the inspection of economic assistance, disability benefits and social services – particularly Paras (5) & (6), there is some overlap in the inspection duties regarding complaints and indications of abuse. The recommendation would be to bring the guidelines in conformity with the Convention and to ensure that the inspection teams cooperate with the NPM or body that will take on the main tasks under Article 16 CRPD.

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## **V. JUSTIFICATION & OUTLINE FOR DISABILITY ACT**

### **a. JUSTIFICATION**

1. Awareness – political signal
2. Twin track approach – in line with CRPD
3. Align Protection levels and ensure leveling-up
4. Change model of impairment, switch to bio-psycho-social model
5. Statistics on Persons with Disabilities
6. Follow model of protection of structurally marginalized
7. Expectation created throughout political system in discussion of signature
8. Ensure awareness to create a budget line
9. Involve regional & district levels
10. Define limits of protection of persons with disabilities
11. Civil society engagement rules
12. Monitoring

The ratification of the CRPD does not necessitate the adoption of a special act per se. What is more, one of the CRPD's main principles – inclusion – prescribes that persons with disabilities are to be made part of the society's mainstream on an equal basis with others. As a consequence, the hitherto maintained practice of separating persons with disabilities, also through "special" laws, should be limited as far as possible. That said, the CRPD also acknowledges that inclusion is founded on interventions into the mainstream as well as specific measures focused on the needs of persons with disabilities. This scheme is frequently described through two parallel tracks: the twin-track approach: one track focuses on efforts to mainstream, the other track provides targeted interventions for persons with disabilities.

In applying the twin-track approach to Albania, the following arguments may be put forward to support specific legislation on the rights of persons with disabilities, an ACT ON INCLUSION OF AND ACCESSIBILITY FOR PERSONS WITH DISABILITIES:

1. Awareness – political signal necessary

Discussions in Albania reveal a very low level of knowledge and awareness of the needs of persons with disabilities. The drafting, discussion, adoption and implementation of specific legislation has significant potential to raise the awareness about the factors leading to exclusion and marginalization of persons with disabilities, the methods to remove barriers to access and the efforts necessary to ensure the inclusion of persons with disabilities on an equal basis with others. While it is also necessary to add the principles of accessibility, inclusion and self-determination throughout legislation, the political discourse and the identity building of persons with disabilities would benefit from having a stand-alone piece of legislation that incorporates the most important aspects of inclusion and accessibility.

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## 2. Twin track approach – in line with CRPD

As stated in the introduction, the CRPD encourages two paths: interventions in support of inclusion and accessibility focused on the mainstream and – complementary – measures focused on persons with disabilities. The Act on Inclusion of and Accessibility for Persons with Disabilities would be the latter instrument.

## 3. Align Protection levels and ensure leveling-up

Currently, persons with disabilities are described in the Social Assistance Act<sup>16</sup> as: “an individual who has become disabled due to a physical, sensory intellectual, psychic-mental impairment, either congenital or in the course of life as a result of an accident and permanent or temporary diseases, which are not related to employment.”<sup>17</sup>

This definition does not concur with the CRPD and will thus have to be amended to ensure compliance with the Convention, particularly to reflect the social, attitudinal and environmental factors and barriers, which exclude persons with disabilities.<sup>18</sup> But also to conform with the bio-psycho-social model of impairments, on which the World Health Organization bases its assessment of impairments and disabilities respectively.

In addition, the partially sighted, blind, paraplegics and tetra-plegics have significant rights and benefits recognized in special statutes.<sup>19</sup> This excludes many persons with disabilities. Examples are: deaf and hard of hearing people, persons with psych-social impairments (mental health related impairments), people with intellectual disabilities and learning difficulties, non-verbal persons, persons who are Autistic or have another sensory impairment, persons with amputations and other mobility impairments not covered in the paraplegic statute, mine victims and many others.

As this open-ended list shows there is a risk in leaving out persons with disabilities in need of protection and support when establishing individual statutes. The CRPD highlights that the concept of disabilities is an “evolving one,”<sup>20</sup> which suggests that there should not be a conclusive definition.<sup>21</sup>

Also in the light of anti-discrimination provisions it therefore seems necessary and opportune to ensure that all persons with disabilities receive the same amount of protection and that – in line with the guarantee to not lower established standards<sup>22</sup> - a leveling-up of protection is in order. The Act on Inclusion of and Accessibility for Persons with Disabilities could serve that purpose.

## 4. Change model of impairment, switch to bio-psycho-social model

In addition to providing more protection for certain impairments than others, the concepts of impairment and disabilities need to be brought up to standard, not only in light of the CRPD. The challenge ahead is particularly obvious in the composition, methods and work of the Commissions assessing the disability status. Contemporary standards of the World Health Organization need to be introduced together with new methodologies such as the multi-disciplinary configuration of the Commissions need to be established. The Act on Inclusion of and Accessibility for Persons with Disabilities could support these efforts.

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## 5. Statistics on Persons with Disabilities

Statistics on certain impairments as well as the overall number of persons with disabilities appear to be comparatively low. Given that persons with disabilities are frequently overlooked in societies and are often rendered invisible, also through attitudinal and social barriers associated with shame and prejudice, the low level should be cause for alarm. The introduction of a contemporary model of impairment and disabilities respectively would be an opportune intervention to also modernize the collection of data related to persons with disabilities, including the obstacles to their inclusion and factors in their exclusion. The Act on Inclusion of and Accessibility for Persons with Disabilities could add momentum to this aspect of inclusion and accessibility for persons with disabilities.

## 6. Follow model of protection of structurally marginalized

Recently, Albania has recognized the structural forces, which exclude women and children through adopting specific legislation: Concerning the Protection of Child Rights<sup>23</sup> and the Law on Gender Equality in Society.<sup>24</sup> Given that a pattern is emerging to explicitly discuss the protection and rights of marginalized persons through a specific law, it would only seem fair to have one of the most marginalized groups in Albanian society, namely persons with disabilities also recognized in a similar law. The Act on Inclusion of and Accessibility for Persons with Disabilities, following a similar structure as the Child Protection Law and the Gender Equality Law could serve that purpose.

## 7. Expectation created throughout political system in discussion of signature

The process of signing the CRPD and the discussions around the upcoming ratification have revolved around steps that need to be taken. The expectation that a specific law – referred to frequently as an “integral” law – needs to be put in place has reached a level where not adopting a specific act would counter the momentum gained in the area of protecting the rights of persons with disabilities. The Act on Inclusion of and Accessibility for Persons with Disabilities could serve as this specific law.

## 8. Ensure awareness to create a budget line

While it is frequently believed that accessibility for and inclusion of persons with disabilities is a cost-intensive effort, that is not necessarily so. A large part of the perceived additional cost is related to a lack of accessible and inclusive planning; thus persons with disabilities receive blame for expense that are – more often than not – the fault of those who ignored to take standards for accessible planning and building into account. Nevertheless, it will be both necessary and helpful to introduce a budget line specifically targeting issues of access and inclusion. The Act on Inclusion of and Accessibility for Persons with Disabilities could support such efforts.

## 9. Involve regional & district levels

The CRPD highlights the importance of providing services in communities – the Community Based Services (CBS) concept. Recognizing the right of persons with

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disabilities to choose where they live and work on an equal basis with others entails that services be provided at the local – regional and district – levels. Engaging the responsible authorities could be supported by way of an Act on Inclusion of and Accessibility for Persons with Disabilities.

#### 10. Define limits of protection of persons with disabilities

The development of laws related to persons with disabilities in Albania is closely interlinked with rules governing the protection of the rights of persons who may – or may not – have an impairment. One prominent group are chronically ill people, another are persons with work-related injuries (work invalids). The lines between impairment, disability, illness and injuries are not always clear. The reform of the methods of assessment and the introduction of a contemporary model of impairment would invite the clarification of the various grounds and levels for protection.

#### 11. Civil society engagement rules

The CRPD is the UN's first core human rights treaty to enshrine an obligation to consult civil society representatives on policy and law related to their protection.<sup>25</sup> Albanian legislation already provides some entry points for engagement between government and civil society, particularly disabled people's organizations (DPOs). The Act on Inclusion of and Accessibility for Persons with Disabilities could serve to link existing mechanisms and provide entry points to expand and strengthen the engagement with civil society, particularly DPOs.<sup>26</sup>

#### 12. Monitoring

The CRPD is the UN's first core human rights treaty to enshrine an obligation to monitor the implementation at the national level.<sup>27</sup> Albanian legislation provides a number of entry points to expand existing mechanisms to cover the monitoring requirements of the CRPD. The Act on Inclusion of and Accessibility for Persons with Disabilities could provide a framework to link the various mechanisms by way of a discussion in the specific act.

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## **b. PROPOSAL FOR OUTLINE FOR LAW**

### **Principles for the outline:**

- Not intended as an “integral” – “encompassing” piece of legislation.
- Based on the twin track approach.
- Aim to complement the regulations in mainstream legislation.
- Clear cross references to existing legislation should be provided, particularly related to anti-discrimination, employment, education, mechanisms.

#### **I. Object**

To ensure issues related to the inclusion of and accessibility for persons with disabilities.

#### **II. Aim & Purpose**

To ensure equal opportunities for persons with disabilities and their right to be included in mainstream society on an equal basis with others.

#### **III. Definitions**

Non-definition of persons with disabilities  
Discrimination based on impairment/disability  
Disabled People’s Organizations

#### **IV. Principles**

The principles of the CRPD explained, particularly social accessibility and inclusion.  
Participation and the obligation to consult persons with disabilities and their representative organizations.

#### **V. Independent Living**

Based on the goals/principles the concept of independent living should be outlined and a provision established, which provides an entry point for various legal but also policy measures that support independent living, particularly the assessment of assistance and support needs and the provision of personal assistants. Furthermore, the provision could provide a link to policy on deinstitutionalization and related matters.

#### **VI. Institutional Mechanisms & Linkages**

The Role of the “Commission” assessing assistance and support needs.  
The Role of the National Council on Disabilities  
The Role of the Commissioner for the Protection from Discrimination

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The Role of the People's Advocate  
The Role of the National Preventive Mechanism  
The Role of institutions such as the Commissioner for Children's Rights  
Involvement of consult persons with disabilities and their representative organizations.

## VII. Sanctions

Various laws provide for sanctions for non-compliance, including the Employment Promotion Code, the Building Code, etc. Possibly these and other regulations could be reinforced in the space of this law.

## VIII. Bilaws/Final clauses

- If the mainstreaming of the status laws is agreed, sun-down clauses will be necessary for the old regulations. Sufficient time should be allocated for the transition period.
- A crucial bilaw will deal with the set up, functioning, guidelines and principles of a "Commission" assessing the assistance and support needs of persons with disabilities.
- Possibly the scheme of personal assistance and support will be covered in existing social legislation, there are also arguments in support of a separate bilaw for such purposes. The discussion is closely interlinked with that of revamping the Commissions assessing the status of persons with disabilities.
- Possibly some of the overlapping issues between work-invalids and persons with disabilities will need to be covered under some transitory and/or sun-down clauses.

## Endnotes:

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<sup>1</sup> Article 1 CRPD, PP (e) CRPD.

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- <sup>2</sup> The Convention defines reasonable accommodation as: necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms; compare Article 2 CRPD.
- <sup>3</sup> CESCR, General Comment 3, The nature of States Parties' obligations.
- <sup>4</sup> CESCR, General Comment 3, The nature of States Parties' obligations, para 5.
- <sup>5</sup> See also <http://www.independentliving.org/column/ratzka200612.html>.
- <sup>6</sup> Compare EU Framework Directive (2000/78/EC).
- <sup>7</sup> Compare PP (e) and Article 1 CRPD – Convention on the Rights of Persons with Disabilities.
- <sup>8</sup> Article 959 Civil Code.
- <sup>9</sup> Article 1 CRPD.
- <sup>10</sup> PP (e) CRPD.
- <sup>11</sup> Compare on „carer“ and „assistant“, above page 7.
- <sup>12</sup> ICF: <http://www.who.int/classifications/icf/en/>.
- <sup>13</sup> Washington Group <http://unstats.un.org/unsd/methods/citygroup/washington.htm>.
- <sup>14</sup> Compare Concluding Observations of CEDAW Committee of September 2010, CEDAW/C/ALB/CO/3.
- <sup>15</sup> Compare Statement by People's Advocate, on Compliance with the Paris Principles, November 2008.
- <sup>16</sup> Law No. 9355.
- <sup>17</sup> Article 4 (3) Law on Social Assistance and Services, No. 9355.
- <sup>18</sup> PP (e) and Article 1 CRPD.
- <sup>19</sup> Law on the Statuts of the blind, No. 8098 and Law on the Status of the Paraplegics and Tetraplegics, No. 8626.
- <sup>20</sup> PP (e) CRPD.
- <sup>21</sup> The CRPD does not use a „definition“ of impairment or disabilities, it rather bases protection on a non-definition, see Article 1 CRPD.
- <sup>22</sup> Article 4 (4) CRPD.
- <sup>23</sup> Law No. 10347.
- <sup>24</sup> Law No. 9970.
- <sup>25</sup> Article 4 (3) CRPD.
- <sup>26</sup> See also provisions on focal points, Article 33 (1) & (3) CRPD.
- <sup>27</sup> Article 33 (2) as well as Article 16 (3) CRPD.