

Oral submission to the Committee on Economic, Social and Cultural Rights Pre-Sessional Working Group, 47th Session, 5-9 December 2011

Right to Education: Bulgaria

The Mental Disability Advocacy Center (MDAC) is an international human rights organisation which advances the rights of children and adults with intellectual disabilities and psycho-social disabilities.

MDAC supports the written submission to the Committee prepared by International Disability Alliance (IDA) and the suggestions made therein regarding questions for the list of issues concerning the rights of persons with disabilities. In doing so we highlight the following supplementary concerns and questions regarding Bulgaria's implementation of Article 13 of the Covenant:

In 2007 MDAC brought a collective complaint against Bulgaria to the European Committee of Social Rights (ECSR). The complaint submitted that the government had failed to provide education for children with moderate, severe or profound intellectual disabilities living in homes for children with mental disabilities. In 2008 the Committee concluded that there had been a violation of Article 17(2) of the European Social Charter which provides for the provision of free primary and secondary education and the encouragement of regular school attendance. Moreover, that the low number of children living in homes for children with mental disabilities that receive any education at all when compared to other children violated Article E: non discrimination.

In its consideration of the case the Committee made four significant observations:

- 1) The government did not dispute, and the Committee therefore relied upon, the data submitted by MDAC which revealed that of the 18 homes for children with mental disabilities surveyed only 2.8% of children attended mainstream school, and an additional 3.4% attended special school.
- 2) The criteria of accessibility and adaptability as laid out in General Comment 13 on the Right to Education by the Committee on Economic, Social and Cultural Rights had not been fulfilled as there was, 'insufficient evidence to show any real attempts to integrate these children into mainstream education', and that schools were 'not suited to meet the needs of children with intellectual disabilities and hence provide their education' (paras 43 and 44).
- 3) The educational activities provided for the remaining 93.8% of children living in the 18 homes surveyed did not constitute any form of education.
- 4) Bulgaria's financial constraints could not be used to justify the continued plight of these children as there had been such little practical implementation of policies and legislation aimed at ensuring their right to education.

Bulgaria is currently preparing a new draft Education Law. Bearing these previous findings in mind, and considering the three years that have passed since the European Committee of Social Rights made its conclusions, answers to the following five questions are paramount:



- 1) What concrete steps has Bulgaria taken to ensure that children with disabilities, including those who are living in institutions, receive an inclusive and quality education?
- 2) In what ways will the new Education Law guarantee the implementation of inclusive education? For example, teacher training, formulation of individual education plans for all students, availability of classroom supports, accessibility of educational materials, and allocation of budget for all of the above? What additional policies are being devised to support such plans?
- 3) Will the new Education Law recognise the denial of reasonable accommodation in the provision of education as constituting discrimination? If so, what measures will be taken to ensure that any complaints are dealt with swiftly; in order to reduce any time a child may spend waiting for accommodations to be provided and hence being de facto denied education?
- 4) Can the government provide statistics detailing the number of children with disabilities attending mainstream schools and the number attending special schools? How many of these children complete primary school, middle school and high school?
- 5) How many children who live in homes for children with mental disabilities still do not attend formal educational centres? If so, what steps are being taken to remedy the situation?

Finally, with regard to the difficulties that Bulgaria has experienced in providing education for children with disabilities in the past, efforts by the Committee to encourage Bulgaria's ratification of the Convention on the Rights of Persons with Disabilities would be most welcome.

Thank you

MDAC v Bulgaria, complaint No. 41/2007 can be accessed on the Council of Europe website here: http://www.coe.int/t/dghl/monitoring/socialcharter/complaints/CC41Merits_en.pdf