

INITIATED BY:
Polio Plus
- Movement Against Disabilities -
To
THE PROPOSER:
10,000 citizens

PROPOSAL
FOR THE ADOPTION OF A LAW ON THE PROTECTION OF
RIGHTS AND DIGNITY OF PERSONS WITH DISABILITIES

Skopje, September 2005

I. CONSTITUTIONAL BASIS FOR PROPOSED LAW ADOPTION

The constitutional basis for the adoption of the above mentioned law is contained in Article 68, paragraph 1, item 2, of the Constitution of the Republic of Macedonia according to which, laws shall be adopted by the Parliament of the Republic of Macedonia.

II. RATIONALE BEHIND PROPOSED LAW ADOPTION

In Article 35 the Constitution of the Republic of Macedonia specifies that the State shall be responsible for the social protection and social welfare of its citizens in accordance with the societal justice principle; in this context, the State guarantees disabled citizens and citizens incapable of working the entitlement to assistance. In accordance with the Constitution, the State provides for special protection to persons with disabilities as well as conditions for the integration of such persons into social life.

In spite of the explicit constitutional provision on the part of the State in regards to providing care for persons with disabilities, issues related to the protection of such persons' rights and dignity in the Republic of Macedonia have been regulated through several legal acts and on various levels, thereby contributing to the existence of an inconsistent system of protection. This has inevitably imposed the need for adopting an overall piece of legislation to regulate this issue in a comprehensive manner, which will in turn contribute to establishing a complete and well-defined legal system for the protection of rights of persons with disabilities.

The proposed law will contribute in developing contemporary, humane and widely recognized principles by which the State will generate subsequent policy and strategy in this area. This will enable the creation of clear, concrete and consistent standards as it relates to respecting the rights and dignity of persons with disabilities. In so doing, the primary (central) role of the State will be provided for through the application of principles and standards established in the proposed law.

III. BASIC PRINCIPLES ON WHICH THE PROPOSED LAW IS BASED

The basic principles of this Law include:

- legality
- equality
- equal opportunity
- effective protection of citizen rights
- equal significance and dignity given to all human beings
- individual autonomy and independence of character
- respecting differences and accepting disabilities as part of human diversity and humanity
- non-discrimination on the basis of disability
- application of specific measures (positive discrimination) where there are the needs and preconditions for the same
- equality of opportunity
- total inclusion of persons with disabilities as equal citizens and participants in all spheres of social and political life

IV. THE CONTENTS OF THE PROPOSED LAW

The contents of the proposed law include the basic relations that are to be regulated by this Law and the manner in which their regulation is proposed. This, as such, has been provided in the form of a Proposal for Law Adoption.

LAW ON THE PROTECTION OF THE RIGHTS AND DIGNITY OF PERSONS WITH DISABILITIES

I. GENERAL PRINCIPLES

Article 1 (the role of the state)

The State shall be the holder and primary entity responsible for the functions in regard to the protection of rights and dignity of persons with disabilities and their inclusion in all spheres of social life.

The State shall guarantee the establishment of a systemic solution and carry out activities prescribed by this Law.

No form of violation to the rights of persons with disabilities that have been prescribed by this Law nor acts stemming from it shall exclude the responsibility of the State in this regard.

Article 2 (the contents of the Law)

The Law shall regulate the protection of the rights and dignity of persons with disabilities, the principles of protection, the prohibition of discrimination based on disability, specific actions on the part of the State (positive discrimination), the system which includes the mechanisms for regulation, protection and security in this area and penal measures in cases of non-compliance.

Article 3 (the subject of protection)

The subject of protection in this Law shall be the rights and dignity of persons with disabilities in the Republic of Macedonia.

For the purpose of this Law "disability" shall mean disrupted communication between an incapacitated person and the society.

For the purpose of this Law "a person with disabilities" shall mean an individual who has been prevented from or has been considerably hindered in performing one or several daily activities and functions due to considerable and long-term disruption of bodily, mental, and/or sensory functions.

Article 4 (the aims of this Law)

The aims of the Law shall be the following:

- the establishment of a complete and well-developed legal system for the protection of rights and dignity of persons with disabilities in the Republic of Macedonia
- the development of contemporary, humane and widely recognized principles that will generate subsequent policy and strategy by the State in order to accomplish the aims set out in the Law
- the creation and enforcement of clear, concrete and consistent standards related to the respect of rights and dignity of persons with disabilities
- a provision stating that the State will take the leading role in enforcing the principles and standards set out in the Law.

Article 5
(fundamental principles)

The fundamental principles of this Law shall be the following:

- equal significance and dignity for all human beings
- individual autonomy and independence of character
- respect for differences, the acceptance of disabilities as part of human diversity and humanity
- non-discrimination on the basis of disability
- application of specific measures (positive discrimination) where there are the needs and preconditions for the same
- equality of opportunity
- total inclusion of persons with disabilities as equal citizens and participants in all spheres of social and political life.

Article 6
(prohibition of inter-discrimination)

In view of the diversity of disability types, the State shall focus its activities on the consequences (impairment) and not the reasons for the disability.

The reasons for the occurrence of disabilities shall be the basis for taking a preventative role on behalf of the State.

Article 7
(raising public awareness)

The State shall be responsible for carrying out effective activities to increase the level of society's awareness regarding persons with disabilities, their rights and dignity, their potential and on their contributions, by means of the following:

- raising public awareness of persons with disabilities
- fighting against existing stereotypes and prejudices directed at persons with disabilities
- promoting a positive attitude toward persons with disabilities

Upon proposal from the Ministry of Labor and Social Policy and to take on the responsibility mentioned in paragraph 1 hereunder, the Government of the Republic of Macedonia shall adopt a Program to Raise Public Awareness of Persons with Disabilities, Their Rights and Dignity, which is to be performed annually prior to the commencement of every fiscal year.

Article 8
(co-operation with organizations of persons with disabilities)

The development and design of policies and strategies to enforce this Law shall be performed by the State in close co-operation with organizations of persons with disabilities.

The State shall create an appropriate national policy targeting persons with disabilities and shall motivate and support activities for its implementation on the local level.

The State shall provide for the participation of organizations of persons with disabilities in the bodies and entities to be established and originated by this Law.

**II. THE RIGHTS AND FREEDOMS OF PERSONS WITH
DISABILITIES**

Article 9
(equal protection in the eyes of the law)

All human beings are equal in the eyes of the law and are entitled to, without any kind of discrimination based on disability whatsoever, equal protection by law.

The State shall prohibit any kind of discrimination on the basis of disability and shall guarantee equal and effective protection when persons with disabilities exercise their rights and right to dignity.

Article 10
(discrimination based on disability)

For the purpose of this Law “discrimination based on disability” shall refer to any differentiating, exclusion, or limitation based on disability which aims to, or results in, preventing or hindering the recognition and exercise of basic rights and freedoms of an individual and citizen under equal terms.

Article 11
(work capability)

All persons with disabilities shall be considered to be capable of all types of employment, unless it has been limited or revoked in a procedure determined by law.

All cases where working privileges of a disabled individual have been revoked contrary to paragraph 1 hereunder, shall be considered a case of discrimination as defined in this Law.

The degree of assistance required when exercising the working ability of persons with mental disabilities shall be proportionate to the need for assistance, and must not violate the rights and dignity of such persons with disabilities.

Assistance mentioned in paragraph 3 hereunder, shall be determined on an individual basis through a specific act for that purpose by a competent authority.

Article 12
(freedom of character)

A person shall be entitled to freedom and integrity of character which may not as such, be limited to a person in question on the basis of disability.

No person may be illegally deprived of freedom on the basis of their disability except for reasons and in a procedure determined by law.

No person may be forcefully hospitalized or placed in a special institution on the basis of their disability without their clearly expressed consent thereto, except for reasons and in a procedure determined by law.

Article 13
(protection against maltreatment)

No person with a disability may be subject to torture, nor inhumane or humiliating treatment and punishment on the basis of their disability.

Measures of cruel treatment, punishment, and the use of cruel behavioral modification measures against persons with disabilities, shall be considered violations of the provisions contained in paragraph 1 hereunder.

Subjecting persons with disabilities to medical or scientific experiments without priority receiving their freely expressed consent shall be specifically prohibited.

Article 14
(family life)

A person with a disability shall have the right to live among their own family members.

The right to motherhood, adoption or guardianship may not be limited on the basis of disability in absence of a procedure specified by law.

A violation of the rights on the basis of disability and in absence of a priory conducted procedure mentioned in paragraph 2 hereunder, shall be considered to constitute a serious case of discrimination.

Article 15
(social expression)

A person with a disability shall be entitled to express their views on cultural, sports, religious and social affairs and express opinions, affinities and abilities.

Should the entitlement mentioned in paragraph 1 hereunder be violated on the basis of disability, it shall be considered to constitute discrimination for the purpose of this Law.

Article 16
(inappropriate medical treatment)

Any medical treatment that shall cause drastic deterioration in the psychological and physical condition and the degree of the disability inflicted on a person with a disability, due to unconscious, untimely, or negligent treatment, shall be considered to constitute a case of violation of this Law.

Article 17
(harassment)

Any form of harassment shall be prohibited.

For the purpose of this Law “harassment” shall mean any violation of the dignity of a person with a disability by means of creating a hostile, threatening and degrading environment and climate.

Article 18
(inaccessibility/annoyance)

Any form of annoyance shall be prohibited.

For the purpose of this Law “annoyance” shall mean any inaccessibility to public services, which may include the construction and maintenance of architectural environments that hinder access to persons with disabilities, the absence of any reasonably adapted access space for persons with disabilities or the non-compliance with, or reluctance to do so.

Article 19
(tolerance)

Every natural and legal entity shall need to maintain a certain degree of tolerance toward persons with disabilities who require special aids, techniques and manners to meet their needs.

Legal entities – providers of services shall be obliged to adopt internal regulations regarding the availability of services to persons with disabilities mentioned in paragraph 1 hereunder and make such regulation publicly available.

Article 20
(multiple discrimination)

Any discriminatory act against a woman or child with a disability, or against a person with severe, combined and multiple disabilities, shall be considered to constitute a serious form of discrimination.

The State shall carry out priority measures and activities to eliminate all kinds of discrimination based on disability with particular emphasis given to women and children with disabilities and persons with severe, combined or multiple disabilities.

Article 21
(basis for qualification)

Any violation of the provisions of this Law that is concurrently construed as a criminal act as specified in the Republic of Macedonia Criminal Code shall qualify as a serious violation if performed against a person with a disability or a cause thereof.

Article 22
(responsibility to act and tolerate)

The State shall have the duty to take legislative, administrative, judicial, educational, and other measures to provide protection against discrimination based on disability.

Every natural and legal entity shall have the responsibility to act and practice tolerance in accordance with the provisions contained in this Law.

III. AREAS OF PROTECTION

1. Health protection and rehabilitation

Article 23

The State shall be primarily responsible for carrying out appropriate measures to prevent the causes of disabilities, as well as to secure the right to effective medical treatment and rehabilitation on the part of persons with disabilities.

The provision of basic health services to persons with disabilities shall be performed free of charge.

Health services not covered by mandatory health insurance, an issue important for the regulation and improvement of health conditions of persons with disabilities, shall be considered basic health services and shall be determined on an individual basis by a competent authority.

Article 24

Through the Ministry of Health and the Ministry of Education, the Government shall develop and maintain educational programs on disability prevention.

Through the Ministry of Health and the Ministry of Labor and Social Policy, the Government shall take concrete steps to provide announcements on hygienic, technical, and health care measures in all public institutions and areas, particularly in those areas where there is a greater frequency of people.

Through the Ministry of Health, the Government shall take concrete steps in activities related to the detection, analysis, and timely diagnosis of and information on high-risk pre-pregnancy factors, genetic diseases and all other factors that may contribute in preventing an occurrence of disability.

Upon proposal from the Ministry of Health and a previous recommendation from the Ministry of Labor and Social Policy, the Government shall adopt a Program on Health Care Education, Hygienic-Technical Aspects and Health Care Measures for Disability Prevention. This is to be performed prior to each fiscal year on an annual basis in order to carry out the responsibilities mentioned in paragraphs 1, 2, and 3 hereunder.

Article 25

For the purpose of early detection and the continuous monitoring of the development of children, the Ministry of Health shall establish a network of centers to continuously monitor risk factors that may contribute to the occurrence of a disability or may worsen an existing disability.

The condition of children with severe disabilities shall be monitored by a special, national Centre.

Article 26

The State shall be primarily responsible in developing national rehabilitation programs and shall be bound to provide for the rehabilitation of all persons with disabilities on the basis of their particular needs.

Persons with permanent disabilities shall be entitled to free-of-charge medical rehabilitation.

For the purpose of this Law “medical rehabilitation” shall refer to surgical procedures and medication, physical therapy, speech and visual therapy, kinesis therapy, ergo therapy, psychological therapy and determining and designing support apparatuses and aids appropriate to the disability in question.

To encourage and support independent living on the part of persons with disabilities, the State shall provide for health care service visits for the continuous medical care and rehabilitation of such persons.

Article 27

In order to make it easier for persons with disabilities to perform their everyday activities and functions, the State shall enable the use of appropriate technical supporting aids that will continuously follow contemporary technical and technological achievements in this field by such persons.

In the event that the aids mentioned in paragraph 1 hereunder are not manufactured in the country, and on the basis of a previously regulated procedure which states that each case will be reviewed on an individual basis, the Health Fund shall cover the costs for the purchase of such aids, including the costs for stay abroad of persons with disabilities, should this be required for a particular technical and technological process.

A person with a disability that has severely deteriorated motor and sensory functions while traveling, performing a work task, professional activity etc., and is in need of medical or technical treatment, shall be entitled to an escort whose costs shall be covered by funds allocated for the activity in question.

Article 28

In the process of creating and carrying out activities related to health care and rehabilitation of persons with disabilities, the State and local self-government units shall provide for acceptable participation and representation of persons with disabilities, their families and organizations.

2. Education

Article 29

The State shall provide for the equal right and opportunity to a complete education of persons with disabilities as an integral part of the regular national education system.

In cases where the regular education system does not adequately meet the educational and rearing needs of persons with disabilities, special educational units shall be established as an integral part of the regular education system.

A person with a disability shall be given the right to freely choose between regular and special education units on the basis of a priority obtained diagnosis and opinion from a competent body.

Article 30

Within special educational units and institutions specialized in accommodating persons with disabilities, which shall also include a rearing component, educational programs shall be carried out using adapted teaching methods and materials for learning purposes and monitoring progress.

Article 31

Specialized schools for persons with sensory disabilities shall become institutions for educational and social rehabilitation aimed at successfully including these students in the regular education system.

Article 32

Within the regular educational system, a provision shall be made for continuous training on teaching, supporting aids and equipment, and additional services shall be organized on the basis of individual educational and rearing needs of persons with disabilities.

Article 33

The State shall undertake measures for the continuous and systematic integration of persons with disabilities into its regular educational process.

Access to the contents of the regular curriculum program for students with special education and rearing needs, shall be provided for through the development of individual educational plans.

Article 34

The Government shall adopt specific acts on the following:

- improving accessibility to educational institutions
- transport and accommodation of students with disabilities
- provision for incentives (quotas, scholarships, exemption from tuition fees) for students with disabilities
- availability of curricula
- the use of technical/technological audio-visual teaching tools in accordance with the type and degree of disability

The Ministry of Education and Science shall improve the current curricula in order to raise awareness on the issue of disability.

Article 35

The parents and organizations of persons with disabilities shall be included in drafting and enacting curricula, teaching and scientific councils, and in services that provide regular support to persons with disabilities throughout the education process.

3. Employment

Article 36

The State shall undertake specific measures and activities to enable the professional integration of all persons with disabilities regardless of the causes, nature or degree of incapacitation.

The Ministry of Labor and Social Policy and the Agency for Employment shall develop and carry out national programs and measures to increase employment that shall provide for the equal opportunity of employment to persons with disabilities in the open labor market.

Article 37

For every 12 months of active working service, the labor-related insurance benefit for an employed person with a disability shall be calculated with an additional four (4) months of service.

A person with a disability may gain the right to reach pension status 5 years before the legally determined retirement date for their age and gender.

Article 38

The State shall adopt a Law on Employment of Persons with Disabilities and an Action Plan for such law enactment.

The bodies in local self-government units shall be obliged to include measures for increasing the employment of persons with disabilities in their local development programs.

In the adoption of the acts mentioned hereunder, special emphasis shall be placed on promoting the efforts of persons with disabilities made toward work satisfaction of persons that will never be able to perform economically effective and justified tasks.

Article 39

The Law on the Employment of Persons with Disabilities shall prescribe special conditions and benefits for the employment of persons with disabilities by means of the following:

- providing a 2-3% quota for the employment of persons with disabilities in the public sector through the establishment of a system of “reserved” positions within the internal job position organization
- creating the necessary working conditions by adapting work places where persons with disabilities will be working
- tax exemptions and other economic benefits in order to promote social accountability and to motivate large companies to employ persons with disabilities;
- establishing and encouraging an operation of sheltered companies as a transitional mechanism toward the complete integration of persons with disabilities in the labor process
- encouraging and motivating persons with disabilities to perform work activities independently and manage sheltered companies

Article 40

A sheltered company may be any commercial company that shall employ at least five (5) persons, of which a minimum of 40% shall be persons with disabilities for the purpose of this Law.

Sheltered companies shall receive special benefits through the allocation of funds from the Special Fund in the following cases:

- employing a person with a disability
- creating adequate working conditions by means of adapting the work places where the employed person with a disability will be working
- tax exemptions
- providing funds for taxes and benefits on wages
- financial support for operations, should such an investment provide the opening of new jobs for persons with disabilities

Article 41

The Agency for Employment shall:

- maintain records of employed and unemployed persons with disabilities and issue information on appropriate job openings;
- undertake measures and implement programs in the area of work training aimed at professionally upgrading persons with disabilities
- perform monitoring and control activities on the appropriateness of how money from the Fund is being disbursed

Article 42

The Agency for Employment shall direct a person with a disability to appropriate employment training in the following cases:

- a request from an unemployed person with a disability whose aim is to continuously upgrade their working abilities and skills is received
- a request from an employer wishing to employ a person with a disability, should that person not possess the level of education adequate for the activity they will be performing, is received
- a request from an employer wishing to place a staff member with a disability into another position, should that person not have the proper qualifications required for the position in question.

Funds required for persons with disabilities to qualify for work shall be provided from the Special Fund for the employment of persons with disabilities.

Article 43

The State shall establish a Special Fund to secure the necessary conditions to obtain work qualifications, employment and working engagements of persons with disabilities.

15% of current employment deductions shall be allocated into a separate account held by the Agency for Employment by the 30th day of each month, for the previous month.

The Special Fund shall be managed by a Management Board comprised of three representatives of the Agency for Employment, the Governmental Co-ordinative Body, the Assembly of Organizations of Persons with Disabilities (SOLH) and the Association of Protective Companies

The Manager, appointed by the Government of the Republic of Macedonia, shall be the management body of the Special Fund.

Article 44

Funds from the Special Fund shall be allocated for the following:

- performing the functions of the Special Fund; a maximum of 1% of the total funds managed by the Special Fund shall be set aside in each calendar year
- obtaining work qualifications and training for persons with disabilities
- creating adequate working conditions by adapting work places where persons with disabilities will be working
- providing special benefits to sheltered companies
- providing special benefits to persons with disabilities who independently perform activities or manage sheltered companies

Article 45

The State, workers' organizations and employers shall be obliged to establish a working co-operation with representatives of persons with disabilities.

SOLH shall establish a Working Relations Commission to act as a consultant in discussions on working relations issues regarding persons with disabilities.

4. Social Protection

Article 46

The State shall guarantee equal opportunity to persons with disabilities, and shall undertake measures aimed at self support, developing personal and economic independence and social integration by providing for the following:

- the minimum financial means required for decent living
- support to families of persons with disabilities and individual independence of persons with disabilities
- services for the total inclusion of persons with disabilities into social life

In cases of the inability to enact the provisions contained in paragraph 1 hereunder, the State shall intervene by providing accommodation and care for persons with disabilities in social protection institutions.

Article 47

Through the Ministry of Labor and Social Policy, the State shall provide the following to persons with disabilities:

- social allowances
- continuous allowances based on disability
- assistance and care provided by another person
- support to families of persons with disabilities

Article 48

Persons with disabilities shall receive social allowances in accordance with conditions specified by law; this form of assistance shall not exclude other forms of financial support.

Article 49

Persons with disabilities shall be entitled to continuous allowances up to an amount of one to two thirds of an average monthly net salary, depending on the type and severity of the disability.

The entitlement provided for in paragraph 1 hereunder shall be aimed at covering additional costs due to disability; it shall not be considered to represent an income, and the social status of the family of the person with a disability shall not be taken into account in determining its amount.

Article 50

The Ministry of Labor and Social Policy shall provide for assistance and care to persons with severe and extremely severe disabilities by another person, depending on individual needs.

Remuneration to cover the costs of providing assistance and care to a person with a disability shall be determined by a competent body, which shall be up to an amount of one to two thirds of the average monthly net salary, depending on the type of service provided and the workload involved.

Upon a previous recommendation from the Ministry of Labor and Social Policy, where necessary, the remuneration mentioned in paragraph 1 hereunder, shall be increased in accordance with the needs of the person with a disability.

Article 51

The State shall provide for a system of support to families of persons with disabilities so as to enable such persons to live in their natural family environment.

A greater degree of support in this regard shall be provided to families of persons with the extremely severe types of disability; the duration of time spent providing care by one parent shall be considered pensionable earnings.

Article 52

Persons with disabilities shall be entitled to social rehabilitation.

For the purpose of this Law “social rehabilitation” shall mean the development of skills necessary to maintain independent living through the rehabilitation of persons with damage to sight, hearing, speech and motor skills and through psychological and psychiatric assistance, information and social services, as well as other activities aimed at achieving full integration of the person with a disability and their families.

The State shall establish a network of special regional, social rehabilitation teams comprised of experts in relevant fields, lawyers, persons with disabilities and members of their families.

Article 53

In order to encourage independent living and the inclusion of persons with disabilities in all spheres of social living, the State shall establish a network of personal assistance services.

The need, duration, level, and quality of assistance mentioned in paragraph 1 hereunder, shall be specified on an individual basis by a competent body through the issuance of a special act and in accordance with a previously determined procedure.

Article 54

For the support of independent living, the development of routines and skills and for members of families of persons with disabilities to go about their business and engage socially unhindered, the State shall organize a network of centers for day accommodation and care for persons with disabilities (hereinafter referred to as “day care centers”).

In addition to the centers mentioned in paragraph 1 hereunder, the State and local self-government units shall initiate and support the creation of other alternative support, such as resource centers, SOS telephone lines, educational centers, legal aid centers, advisory services for psychological and social integration of persons with disabilities, activities for raising public awareness and other activities as deemed appropriate.

The State, through the Fund established by this Law, and local self-government, providing its own funds, shall support initiatives and activities undertaken by families of persons with disabilities, non-governmental organizations and informal groups for the purposes of providing alternative services that support persons with disabilities and their families.

Article 55

In regards to persons with severe, extremely severe and a combination of disabilities, who, for various reasons, are not able to live within their families, the Ministry of Labor and Social Policy shall provide conditions for the accommodation of such persons in specialized institutions which function on the principle of providing a family living environment.

Persons mentioned in paragraph 1 hereunder shall be accommodated into specialized institutions located as near as possible to their places of residence.

5. Accessibility

Article 56

In order to enable the inclusion and participation of persons with disabilities in the community, the State shall, through special acts, regulate these relevant areas which will respect the principles of unhindered movement, access to information and information technology, independent living and universal design.

Article 57

The Ministry of Transport and Communications and the Ministry of Environment and Spatial Planning shall be responsible for integrating regulations and measures on the unhindered movement and architectonically accessible environments for persons with disabilities within their processes of physical and urban planning, construction and adaptation.

The Ministry of Transport and Communications shall adopt a Program to identify and gradually eliminate existing architectonic barriers.

In the adoption of detailed urban development plans and when issuing construction permits, local self-government units shall be obliged to adhere to provisions stated in paragraphs 1 and 2 hereunder.

Article 58

The Ministry of Transport and Communications and local self-government units shall adopt regulations and undertake measures to provide for the following:

- accessibility to public transport
- accessibility to transport stations and vehicles, through the incorporation of appropriate technical devices
- appropriate conditions for moving, stopping, parking and operating vehicles driven by or transporting persons with disabilities

- signalization, tactile pathways and unhindered public transport access for individuals using guide dogs

The State shall, through a special act, regulate beneficial treatment for public transport use for persons with disabilities and for persons escorting them

The State shall, through a special act, regulate the beneficial treatment provided for the necessary import, adaptation, maintenance and insurance on passenger motor vehicles to enable the mobility of persons with disabilities

Article 59

The State shall issue regulations to provide for the accessibility to information, facilitating communication with public services, the use of appropriate technologies and services and the adaptation of the information system to suit the needs of persons with disabilities.

Macedonian Radio and Television and the Macedonian Information Agency shall provide for media coverage of events, promote positive trends and broadcast contents and messages targeting persons with disabilities.

Printed and electronic media shall include contents intended for persons with disabilities in their programs and shall make this available to such persons.

Presentations and the web sites of public institutions shall also be designed in versions accessible to persons with visual disabilities.

The Information Agency and the Broadcasting Council shall monitor and improve the enforcement of the provisions contained in paragraphs 3 and 4 hereunder.

6. Political participation

Article 60

The State shall carry out measures and activities to guarantee equal opportunity for active participation in the electoral process of persons with disabilities.

The State Electoral Commission shall inform, initiate and undertake measures to provide for full participation in the electoral process of persons with disabilities.

Article 61

The State shall be responsible for providing a total understanding of and the accessibility to electoral procedures and polling stations for persons with disabilities.

In the case where a person with a disability is not able to exercise the right stated in paragraph 1 hereunder, the State shall enable the person to vote from home, from hospital or from another institution, providing necessary assistance when voting, if required.

Article 62

Political parties and others who submit a candidate list shall, when submitting the lists, provide for a mandatory representation of 5% of persons with disabilities for the purpose of this Law, thereby taking into consideration equal representation.

7. Housing

Article 63

In the planning, design, construction, and granting of social housing, the State shall, in respect of the principle of personal sovereignty and independent living, establish priorities to resolve housing issues of persons with disabilities.

Article 64

Local self-government units shall carry out specific measures to adapt the housing units of persons with an acquired disability, depending on their specific situation and living needs.

Local self-government units shall undertake specific activities to provide for temporary housing or for total or partial coverage of housing costs of persons with disabilities.

8. Cultural, leisure and sports activities

Article 65

The State, local self-government units, associations and communities shall adopt programs and plan specific measures for providing equal opportunity for persons with disabilities to meet their cultural, sports, and religious needs and recognition of their creative efforts and potential.

Article 66

Into its annual programs, the Ministry of Culture shall integrate contents as to encourage, promote and affirm the creative, artistic and intellectual potential of persons with disabilities.

The Ministry of Culture and cultural institutions shall adopt specific measures to enable the access to and make possible the following and understanding of cultural contents on the part of persons with disabilities.

Article 67

The Agency for Youth and Sports shall adopt an annual program to enable full integration of persons with disabilities into sports activities foreseen by the program.

In co-operation with the local self-government units, sports federations and sports clubs, the Agency for Youth and Sports shall create conditions to integrate persons with disabilities through the adaptation and rental of sports buildings, courts and accessories, as well as providing information on and promoting relevant events and achievements made.

The organizers of sports competitions and events shall adopt specific measures to provide for the access, transport, attendance at events and personal security of persons with disabilities.

IV. REGULATORY MECHANISMS

1. Statistics

Article 68

The State shall be the primary entity responsible for regularly gathering statistical and other information related to the lives of persons with disabilities.

The gathering of information referred to in paragraph 1 hereunder, shall be carried out in an organized and legal manner in conjunction with the population and household census.

Article 69

The State shall be ultimately responsible for compiling, updating and utilizing databases on persons with disabilities.

The responsibility mentioned in paragraph 1 hereunder, may be delegated to a legal entity through a special act and in accordance with a previously determined procedure.

In the process of database design, the confidentiality of data and the personal integrity of persons with disabilities shall be maintained.

Databases shall be maintained in a statistical format and shall include information on age, gender, disability type and education and social status of persons with disabilities.

Article 70

The State and local self-government units shall be obliged to create and carry out research programs on socio-economic and participation issues that affect the lives of persons with disabilities and their families.

2. Commissions for Determining Disability

Article 71

Determining a disability type and the degree of incapacitation and hindrance in performing daily activities and functions shall be performed on an individual basis by a special Commission for Determining Disability established for that purpose.

Through a special act of the Ministry of Health, five (5) regional, first-instance Commissions for Determining Disability shall be established as well as a national second – instance Commission for Determining Disability that will perform the monitoring.

Article 72

A procedure for determining disability may be initiated by a person who believes he has a disability, his guardian or by a competent body.

The procedure for determining disability shall be free of charge to the initiator.

The Commission for Determining Disability shall operate in accordance with national and international standards and in accordance with the international classification of functions, disability and health.

Article 73

A determined disability may be temporary or permanent.

A person who has been determined disabled shall receive an identification card to enable the individual to exercise rights on the basis of a disability.

Article 74

The Commission for Determining Disability shall maintain records of all persons who have been confirmed to be disabled.

Data contained in records mentioned in paragraph 1 hereunder, shall be confidential and may only be used in cases determined by law.

3. Co-ordinative body for providing equal opportunity to persons with disabilities

Article 75

For the purpose of co-ordinating the operations of ministries and other state bodies in the enactment of this Law and acts derived thereof, the Government shall establish a Co-ordination Body for providing equal opportunity to persons with disabilities (hereinafter referred to as the Governmental Co-ordination Body).

The Governmental Co-ordination Body shall meet when required and at a minimum of once per month.

Article 76

The Governmental Co-ordination Body shall be bound to co-ordinate the activities of ministries and other bodies and institutions in relation to the following:

- issues important to the elimination of discrimination against persons with disabilities
- measures contributing to the elimination of such discrimination
- measures to create and promote equal opportunity and full participation of persons with disabilities in all spheres of social living
- other issues related to the implementation of provisions contained in this Law and in acts stemming from it

Article 77

The Governmental Co-ordination Body shall be comprised of 9 members.

The following persons shall be members of the Governmental Co-ordination Body by function:

- the Minister of Labor and Social Policy
- the Minister of Health
- the Minister of Transport and Communications
- the Minister of Education and Science
- the Minister of Culture
- the Minister of Environment and Physical Planning

The president of the Commission for the Protection of Rights of Persons with Disabilities, the manager of the Fund for the Rights of Persons with Disabilities and the president of the Assembly of Organizations of Persons with Disabilities shall also be members of the Governmental Co-ordination Body by function.

The president of the Governmental Co-ordination Body shall be appointed from the line of ministers by the Government of the Republic of Macedonia.

Article 78

The Governmental Co-ordination Body shall submit an annual report of operations to the Government.

The report mentioned in paragraph 1 hereunder, shall be previously submitted for review to the Commission for the Protection of Rights of Persons with Disabilities and to the Council of Organizations of Persons with Disabilities.

4. The Assembly of Organizations of Persons with Disabilities (SOLH)

Article 79

Persons with disabilities shall have the right to association for the purpose of achieving their common goals and interests in accordance with the current legislation of the Republic of Macedonia.

For the need of co-ordination between non-governmental organizations and to ensure the participation of persons with disabilities in the creation of policies and strategies to enforce this Law and the acts stemming from it, organizations of persons with disabilities shall establish an Assembly of Organizations of Persons with Disabilities (hereinafter referred to as "SOLH").

Article 80

For the purposes of this Law, "organization of persons with disabilities" shall mean any organization registered in accordance with the Law on Citizen Associations and Foundations, where a minimum of 51% of its members are persons with disabilities or representatives of persons with disabilities, as these individuals are not able to represent themselves, and where the managerial position is held by a person with a disability or by a representative of a person with a disability, as these individuals are not able to represent themselves.

Article 81

All organizations of persons with disabilities shall have the right to be members of SOLH of their own free will and judgment.

Organizations within SOLH, on one hand, shall be structured according to the geneses-type of disability, and according to affinity, purpose, manner of work and common interests of persons with disabilities (multiple-structured groups), on the other.

Article 82

SOLH shall have legal entity status and its operations shall be in the public interest of the Republic of Macedonia.

SOLH shall adopt a Charter of Principles and prepare long and short term Operational Programs.

SOLH shall adopt a Statute where the manner of operation and the operation of its bodies shall be determined.

Article 83

SOLH shall have the following competencies:

- to represent persons with disabilities, both in the country and abroad
- to take part in the creation of policies, programs and strategies to enforce this Law and acts stemming from it
- to delegate its members to the Governmental Co-ordination Body, the Commission for the Protection of Rights of Persons with Disabilities, the Management Board of the Fund for the Rights of Persons with Disabilities and to other bodies, as appropriate
- to provide its opinion on the work performed by the Governmental Co-ordination Body, the Commission for the Protection of Rights of Persons with Disabilities, the Fund for the Rights of Persons with Disabilities and other bodies, as appropriate
- to initiate and undertake activities on national and local levels for the protection of rights and dignity of persons with disabilities
- to inform and issue opinions and recommendations to competent bodies and organizations on issues of interest to persons with disabilities

Article 84

Necessary operational funds for SOLH shall be provided through the following sources:

- membership fees from member organizations
- allocations from the Fund for the Rights of Persons with Disabilities
- other sources of revenue

Article 85

SOLH shall issue an annual report on activities undertaken and the necessity for the same.

A financial report for a current year and a proposed budget for the following year shall be submitted by SOHL to the Fund for the Rights of Persons with Disabilities.

For informational purposes, a current year financial report shall be previously submitted by SOLH to the Governmental Co-ordination Body and to the Commission for the Protection of Rights of Persons with Disabilities.

V. THE PROTECTION MECHANISM

1. The Commission for the Protection of Rights of Persons with Disabilities

Article 86

For the purpose of maintaining efficient and effective protection of rights and dignity of persons with disabilities, the Commission for the Protection of Rights of Persons with Disabilities (hereinafter referred to as the "Commission") shall be established through provisions of this Law.

Article 87

The Commission shall be comprised of a President-Commissioner and four member Commissioners.

Commissioners shall be appointed by the Parliament, proposed by the Government and on the basis of a previously obtained recommendation from SOHL, for a five-year mandate.

Article 88

A person in possession of a university degree and a minimum of six years experience in the area of citizen rights protection may be appointed Commissioner.

While a person with no disability may become a Commissioner, the Commission shall give more consideration in the light of the participation of persons with disabilities when considering possible appointments.

A Commissioner position shall be performed in a professional manner and may not be performed concurrently with other public functions.

Article 89

The Commission for the Protection of Rights and Dignity of Persons with Disabilities shall work in the following areas:

- protection against injuries caused by general acts
- providing legal assistance and representation in cases of individual injury
- raising public awareness and promoting the subject of protection in this Law
- monitoring the enactment of this Law and acts stemming from it

Article 90

The Commission shall have the following competencies:

- to draft and initiate the adoption of general acts
- to comment on and initiate the adoption of amendments to existing acts
- to issue recommendations to governmental institutions regarding the practical application of general acts in terms of the protection of rights and dignity of persons with disabilities
- to observe the situation in institutions that accommodate or provide day care to persons with disabilities
- to submit requests for an issuance of prohibition to perform activity in cases of extreme violations of the provisions of this Law and acts stemming from it
- to provide legal assistance and representation in individual cases where one or more violations on the subject of protection of this Law has been alleged
- to act as a party in a dispute when it is in the public interest or relates to a larger group of citizens
- to take the initiative of opening a formal investigation with assistance provided by appropriate expert services to competent bodies in cases where there is reasonable doubt that a violation of a provision of this Law and acts stemming from it have occurred
- to issue warnings on the discrepancies of operation of various entities in regard to the provisions of this Law and undertake activities to eliminate shortcomings identified in this regard

- to research, develop and publicize the analyses and programs aimed at promoting the rights and dignity of persons with disabilities
- to carry out educational activities in order to promote the current and future contributions of persons with disabilities in the overall potential and diversity of society.

Article 91

The Commission shall adopt Rules of Operation, Rules for Procedure, Operational Plan and Program, Legal Strategy and Guidelines on the Manners of the Protection of Rights and Dignity of Persons with Disabilities.

Article 92

The Commission shall appoint a Secretary upon a previously obtained recommendation from SOLH.

The Secretary shall manage the Commission's expert service operations.

Article 93

The work of the Commission shall be public.

Funds necessary for Commission operations shall be provided through the Fund for the Protection of Rights of Persons with Disabilities.

Article 94

The Commission shall submit an annual report on its operations to the Parliament of the Republic of Macedonia.

The annual report shall be previously submitted to SOLH and the Fund for the Rights of Persons with Disabilities for review.

The annual report shall specifically contain the following:

- information on activities undertaken by the Commission, independently or in co-operation with other institutions
- general review on the development of issues within the Commission's competencies
- a plan for Commission activities for the following year
- a current year financial report
- a proposed budget for the following year

2. Relations with the Ombudsman

Article 95

Violations of provisions contained in this Law and in acts stemming from it represent a basis for intervention on the part of the Ombudsman.

The Ombudsman shall delegate one of his/her deputies to continuously monitor issues in this area and to take action as appropriate.

3. Protection at the local level

Article 96

For the purpose of providing effective protection of the rights and dignity of persons with disabilities, local self-government bodies shall establish councils or shall actively co-operate with existing local organizations of persons with disabilities.

The local self-government council shall establish a work group to co-operate with the councils or local organizations of persons with disabilities mentioned in paragraph 1 hereunder.

4. The right to a public lawsuit

Article 97

In cases of violation of the rights and dignity of persons with disabilities determined by this Law and by acts stemming from it, an organization of persons with disabilities shall have the right, on behalf of its members and staff, to act as a party in a given court dispute.

VI. THE SECURITY MECHANISM

1. The Fund for the Rights of Persons with Disabilities

Article 98

For the purpose of providing necessary funds for the enactment of this Law and the mechanisms set out by it, the Fund for the Rights of Persons with Disabilities (hereinafter referred to as the "Fund") shall be established.

The Fund shall have legal entity status.

The Fund shall be independent in its operations.

The main office of the Fund shall be located in Skopje.

Article 99

The Fund shall raise its revenues from the following sources:

- a portion of the revenue from games of chance (50% of the total revenue)
- the Budget of the Republic of Macedonia
- credit lines
- foreign investments
- donations, legacies
- other revenues

Article 100

In line with the principles of efficient, effective and cost-effectiveness, the Fund shall distribute its funds for the following:

- for operation of the Fund
- for operations of the Commission for the Protection of Rights of Persons with Disabilities
- for supporting activities performed by SOLH
- for financing programs of organizations of persons with disabilities
- for capital investments to be made to improve the status of persons with disabilities

Article 101

The Fund shall be managed by the Fund's Management Board (hereinafter referred to as the " Management Board").

The Management Board shall consist of 11 members to be appointed by the Government of the Republic of Macedonia for a mandate of five years as follows:

- five representatives from SOLH
- two representatives from the Ministry of Labor and Social Policy
- two representatives from the Ministry of Finance
- two representatives from the Commission for the Protection of the Rights of Persons with Disabilities

The Management Board shall meet when required and a minimum of six times per year.

Article 102

The Fund's Management Board shall perform the following tasks:

- carry out the policy for the development and promotion of the protection of rights and dignity of persons with disabilities
- adopt a Statute of the Fund
- adopt a program and plan of operation
- adopt acts for the organization of the Fund and the internal job organization
- approve the Fund's budget and annual financial report
- prepare an annual report on the Fund's operations
- review issues, reports, information and other materials related to status and problems in the area of protection of the rights of persons with disabilities
- adopt an investment program based on priorities determined for the protection of persons with disabilities
- appoint and dismiss the manager of the Fund and perform other tasks determined by law and the Fund's Statute

The Fund's Management Board shall adopt decisions through a majority of votes of the total number of members.

Article 103

The Manager of the Fund shall be the management body of the Fund.

The Manager shall be appointed by the Management Board through a public announcement for a mandate of five years and may not be re-appointed.

Approval on a decision to appoint a manager of the Fund shall be provided by the Government of the Republic of Macedonia.

Article 104

To perform expert and administrative tasks for the Fund, a Secretariat of the Fund (hereinafter referred to as the "Secretariat") shall be established.

The Manager of the Fund shall act as the Secretariat's management entity.

Article 105

Operations of the Fund shall be public.

The Fund shall submit an annual report on its operations to the Government of the Republic of Macedonia.

The annual report shall be previously submitted to the Governmental Co-ordination Body and SOLH for review.

The report shall contain the following particulars:

- a report on the necessity of activities undertaken by the Fund independently or in co-operation with other institutions
- a plan for Fund activities in the following year
- a current year financial report
- a budget for the following year

Audits on Fund material and financial operations shall be performed in accordance with the State Audit Law.

2. National Strategy for Providing Equal Opportunity to Persons with Disabilities in the Republic of Macedonia

Article 106

For the purpose of enactment of the provisions contained in this Law and acts stemming from it, the Government shall adopt a National Strategy for Providing Equal Opportunity to Persons with Disabilities in the Republic of Macedonia (hereinafter referred to as the "National Strategy").

A National Action Plan shall represent an integral part of the National Strategy.

The work group that will draft a National Strategy shall include representatives from the Commission for the Protection of Rights of Persons with Disabilities and SOLH.

Article 107

A National Strategy shall be adopted for a period of six years.

A National Action Plan shall be adopted for a period of six years and be revised every two years.

Article 108

The Government shall submit an annual report on the progress achieved through the implementation of a National Strategy and National Action Plan and shall make these documents publicly available.

The Commission for the Protection of Rights of Persons with Disabilities and the Governmental Co-ordination Body shall take part in drafting the report mentioned in paragraph 1 hereunder.

Article 109

SOLH shall review the report mentioned in Article 108 of this Law and issue its view thereon.

SOLH shall publish its views on the report mentioned in Article 108 of this Law and communicate it to its members and relevant institutions and organizations in the country and abroad.

VII. PENAL PROVISIONS

Article 110

A person shall be sentenced to a three-month to three-year term of imprisonment for restricting the rights of a person with a disability as set out in the Constitution, the Law or a ratified international agreement.

An official shall be sentenced to a six-month to five-year term of imprisonment for performing an act mentioned in paragraph 1 hereunder in the line of duty.

Article 111

A person shall be sentenced to a one to three-year term of imprisonment for the criminal act of taking away working privilege from a person with a disability where there has been no prior specified legal procedure determined.

An official shall be sentenced to a one to five-year term of imprisonment for an act mentioned in paragraph 1 hereunder in the line of duty.

Article 112

A person shall be sentenced up to a three-year term of imprisonment for illegally depriving the freedoms of a person with a disability contrary to the provisions contained in Article 12 of this Law.

An official shall be sentenced to a one to five-year term of imprisonment for an act mentioned in paragraph 1 hereunder in the line of duty.

Article 113

A person shall be sentenced to a one to five-year term of imprisonment for the criminal act of submitting a person with a disability to torture or inhumane or humiliating treatment and punishment for the purpose of provisions contained in Article 13 of this Law.

An official shall be sentenced to a minimum three-year term of imprisonment for an act mentioned in paragraph 1 hereunder in the line of duty.

Should a person with a disability lose their life or suffer severe bodily injury or other grave consequences as a result of such actions mentioned in paragraph 1 hereunder, the perpetrator thereof shall be punished with a three to ten-year term of imprisonment.

Article 114

A person shall be sentenced to a minimum three-year term of imprisonment for the criminal act of subjecting a person with a disability to medical or scientific experiments without their freely expressed prior consent thereto.

An official shall be sentenced to a minimum five-year term of imprisonment for an act mentioned in paragraph 1 hereunder in the line of duty.

Article 115

A person shall be fined or imprisoned for up to three years for the criminal act of limiting the rights of a person with a disability to motherhood, adoption or guardianship.

An official shall be sentenced to a one to five-year term of imprisonment for an act mentioned in paragraph 1 hereunder in the line of duty.

Article 116

A person shall be fined or imprisoned for up to one year for the criminal act of limiting the rights of a person with a disability to express their views on cultural, sports, religious, and social affairs and to express opinions, affinities and abilities.

Article 117

A person shall be fined or imprisoned for up to one year for disturbing the dignity of a person with a disability by creating a hostile, threatening or degrading environment and atmosphere.

An official shall be sentenced up to a one-year term of imprisonment for an act mentioned in paragraph 1 hereunder in the line of duty.

Article 118

A person shall be fined or imprisoned for up to one year for any manner of annoyance caused to a person with a disability for the purpose of the provisions contained in Article 18 of this Law.

An official shall have his work privileges taken away and be sentenced up to a one to three-year term of imprisonment for an act mentioned in paragraph 1 hereunder in the line of duty.

If the act mentioned in paragraph 1 hereunder is carried out by a legal entity, a fine shall be imposed.

VIII. TRANSITIONAL AND FINAL PROVISIONS

Article 119

The Annual Program for Raising Social Awareness of Persons with Disabilities, Their Rights and Dignity mentioned in Article 7 of this Law, as well as the Program for Health Education, Hygienic-Technical and Health Care Measures for Disability Prevention mentioned in Article 24 of this Law, shall initially be adopted by the Government of the Republic of Macedonia in the year after entering into force of this Law.

Article 120

The State shall be bound to act in accordance to the provisions of this Law whereby assistance shall be provided to persons with mental disabilities when performing work activities within one year after entering into force of this Law.

Article 121

The network of centers for early detection and continuous developmental monitoring of children mentioned in Article 25 of this Law shall be established by the Ministry of Health within three years after entering into force of this Law.

Article 122

The national rehabilitation programs and the right to free-of-charge medical rehabilitation, as well as home visit medical services to provide continuous medical care and rehabilitation mentioned in Article 26 of this Law, shall be developed and made available by the State to beneficiaries within three years after entering into force of this Law.

Article 123

The Ministry of Health and the Health Fund shall operate in accordance to the provisions contained in this Law as to the regulations on the availability of medical aids to persons with disabilities and on the right to paid escort services mentioned in Article 27 of this Law within two years after entering into force of this Law.

Article 124

The State and local self-government units shall provide for adequate participation and representation of persons with disabilities and representatives of their families and organizations, in the process of developing and the realization of activities on health care and rehabilitation of persons with disabilities, within three years after entering into force of this Law.

Article 125

The Law on the Employment of Persons with Disabilities, in accordance with provisions contained in this Law, as well as the Action Plan for Law Enactment shall be adopted by the State within a maximum period of two years after entering into force of this Law.

The relevant bodies of the local self-government units shall adopt local development programs that integrated measures to encourage the employment of persons with disabilities in accordance with Article 38 of this Law, in the year after entering into force of this Law.

Article 126

The Agency for Employment shall harmonize its acts on the employment of persons with disabilities in accordance with provisions contained in this Law within two years after entering into force of this Law.

Article 127

The operations of the Special Fund for the Provision of Conditions for Employment Qualifications, Employment and Work of Persons with Disabilities shall be harmonized to the provisions of this Law within two years after entering into force of this Law.

Article 128

Regulations mentioned in Article 34 of this Law regarding the improvement of accessibility to educational institutions, transport and accommodation, provisions for incentives (quotas, scholarships, exemption from tuition fees, etc.) for students with disabilities and their accessibility to educational programs, utilization of technical and technological audio-visual teaching tools dependent on the needs as to disability type and degree etc., shall be adopted by the Government within a maximum period of three years after entering into force of this Law.

Article 129

The State, through the Ministry of Labor and Social Policy, shall harmonize its acts with provisions on social allowances, continuous allowances on the basis of disability, assistance and care provided by another person and support to families of persons with disabilities determined by Article 47 of this Law, within three years after entering into force of this Law.

Article 130

The network of special, regional and social rehabilitation teams mentioned in Article 52 of this Law and the network of personal assistance services mentioned in Article 53 of this Law shall be established by the State within a maximum period of three years after entering into force of this Law.

Article 131

The network of centers for day accommodation and care for persons with disabilities mentioned in Article 54 of this Law shall be established by the State within a maximum period of three years after entering into force of this Law.

Article 132

Arrangements to accommodate persons with severe, extremely severe and combined disabilities into special environments in accordance with Article 55 of this Law shall be established by the Ministry of Labor and Social Policy within a maximum period of three years following the adoption of this Law.

Article 133

Regulations providing for unhindered movement and architecturally accessible environments to persons with disabilities shall be developed by the Ministry of Transport and Communications and the Ministry of Environment and Physical Planning within a maximum period of three years following the adoption of this Law.

A program to identify and gradually eliminate existing architectural barriers shall be adopted by the Ministry of Transport and Communications within six months following the adoption of the regulations mentioned in paragraph 1 hereunder.

Local self-government units shall harmonize their detailed urban development plans in accordance to the provisions of this Law within one year following the adoption of the regulations mentioned in paragraph 1 hereunder.

Article 134

Regulations mentioned in Articles 58 and 59 of this Law shall be enacted by the State, the Ministry of Transport and Communications, the Ministry of Environment and Spatial Planning and local self-government units within a maximum period of three years following the adoption of this Law.

Article 135

Provisions contained in Articles 60, 61 and 62 of this Law shall be applied as of the first parliamentary elections held following the date of entering into force of this Law.

Article 136

The Ministry of Culture shall adopt its annual program in accordance with the provisions of Article 66 of this Law during the first year following the year of adoption of this Law.

Specific measures to enable the access to and make possible the following and understanding of cultural contents by persons with disabilities shall be implemented by the Ministry of Culture and by cultural institutions within a maximum period of six months following the adoption of the acts regulating these issues.

Article 137

The Agency for Youth and Sports shall adopt its annual program in accordance with the provisions contained in Article 67 of this Law during the first year following the year of adoption of this Law.

Organizers of sports events will apply specific measures to enable access, transport to and attendance at events and will provide personal safety services for persons with disabilities within a maximum period of six months following the adoption of the acts regulating these issues.

Article 138

The Law on Census Population, Households and Dwellings ("Official Journal of the Republic of Macedonia" Nos. 25/94 and 43/02) shall be carried out in accordance with the provisions of this Law within one year after entering into force of this Law and the provisions contained in Articles 68, 69 and 70 shall be enacted in the territory of the Republic of Macedonia during the subsequent census.

Article 139

Acts regulating the operations of the Commissions for Determining Disability and the National Commission for Determining Disability shall be adopted by the Ministry of Health within one year following the adoption of this Law.

Article 140

The permanently established Governmental Co-ordination Body for Providing Equal Opportunity to Persons with Disabilities shall commence to operate in accordance with provisions contained in this Law within one year following the adoption of this Law.

Article 141

The founding meeting of the Assembly of Organizations of Persons with Disabilities shall be held within a maximum period of six months following the adoption of this Law.

Article 142

The Commission for the Protection of the Rights of Persons with Disabilities shall commence operations within a maximum period of one year following the adoption of this Law.

Article 143

The Fund for the Rights of Persons with Disabilities shall commence operations within one year following the adoption of this Law.

Article 144

The Government of the Republic Macedonia shall provide for a National Strategy to Provide Equal Opportunity to Persons with Disabilities in the Republic of Macedonia in accordance with the provisions of this Law within six months following the adoption of this Law.

Article 145

This Law shall enter into force on the eighth day following the date of its publication in the "Official Journal of the Republic of Macedonia".

RATIONALE

FOR THE PROPOSAL OF THE ADOPTION OF A LAW ON THE PROTECTION OF THE RIGHTS AND DIGNITY OF PERSONS WITH DISABILITIES - THROUGH A CIVIC INITIATIVE

THE CONSTITUTIONAL BASIS FOR LAW ADOPTION

The constitutional basis for the adoption of this Law is contained in Article 68, paragraph 1, item 2, of the Constitution of the Republic of Macedonia, according to which, laws should be adopted by the Parliament of the Republic of Macedonia.

The constitutional basis for raising the initiative is contained in Article 71, paragraph 2, of the Constitution of the Republic of Macedonia, whereby a citizen association, on the initiative of 10,000 individuals, may raise an initiative to an individual who is authorized to make a proposal for the adoption of a law (cf. paragraph 1 of the same Article).

ASSESSMENT OF THE SITUATION IN THE AREA TO BE REGULATED AND ON THE ENACTMENT OF CURRENT REGULATIONS IN SAID AREA

In Article 1 of its Constitution, the Republic of Macedonia is defined as a sovereign, independent and democratic state, but also as a social state.

Article 35, paragraph 3, of the Constitution of the Republic of Macedonia defines the Republic of Macedonia as a country that cares for the social protection and social welfare of its citizens, guaranteeing the right to assistance of those citizens who are incapacitated and incapable of working and providing for special protection and conditions for persons with disabilities for the inclusion of these individuals into social life. These constitutional provisions specifically imply the responsibility of the State as to socio-political measures and within its overall operational and legal activity, to take into account the given equality of persons with disabilities with that of other citizens, so that, in addition to general needs, consideration must be given to specific needs that stem from their incapacitation.

Following the Second World War, Macedonia established a system for the protection of persons with disabilities that was based on the medical aspect of a disability as its starting point and a system that was very strongly institutionalized. The scientific views at the time were based on the notion that persons with disabilities and every other individual and all else were the concern of the State. Following Macedonian independence and the beginning of the transition process, the social welfare sector became impoverished, which, in turn, lowered the care and benefits provided to persons with disabilities. At the same time, in international circles, a movement pertaining to persons with disabilities and their representatives was becoming stronger. Also, the issue of perceiving disability solely on medical grounds as had previously been done was being abandoned, and the social model affirmed the view that the issue of disability was an issue of human rights. Due to these developments, Macedonia, who had been a relatively advanced country previously, became a country starting to lag behind in international circles, as the marginalization of persons with disabilities continued to increase.

Macedonia is a signatory party to several international documents making it legally and morally obliged to implement specific measures in this area which include the UN Charter, the 1948 Universal Declaration of Human Rights, the 1993 UN Resolution on Standard Rules to Provide Equal Opportunity to Persons with Disabilities (Resolution No. 48/49) and the 1950 European Convention on Human Rights, etc. Macedonia adopted a National Strategy to Provide Equal Opportunity to Persons with Disabilities in 2001 (cf. "The Official Journal of the Republic of Macedonia" No. 101/01) and a Declaration for the Protection and Promotion of Rights of Persons with Special Needs, which was adopted by the Parliament of the Republic of Macedonia on July 23rd, 2003. Taking on these responsibilities imposed the need for specific actions of enactment.

From the quantitative point of view, it appears that Macedonia does not lack legislation regulating the status of persons with disabilities. An analytical report entitled "A Collection of Macedonian Legislation on Persons with Disabilities" (a "Justicijana" edition, 2005, ISBN 9989-2357-1-6) contains 26 laws and a complete series of secondary legislation that regulate this area to a greater or lesser extent. The level of involvement and understanding of this positive oriented legislation moves between fragmented mentions of persons with disabilities (as in the Customs Law, cf. "The Official Journal of the Republic of Macedonia" No. 20/93) and the existence of a special Law on the Employment of Persons with Disabilities, which is one of the *lex specialis* on the Law on Working Relations. The time frame of these laws mentioned is quite long (for Macedonian standards) and includes laws adopted as of 1966 (e.g. the Law on Determining Benefits in Public Transport, cf. "The Official Journal of the Socialist Republic of Macedonia" Nos. 38/66, 18, 77 and 10/79) up to the recent amendments to the Law on Social Protection and the Law on the Employment of Persons with Disabilities (July 2005). The actual problem with the current legislation is the fact that it has been adopted to address various specific interests and within current official policies (varying between those purely fiscal and charity/solidarity), by various legislators (different states: SFRY and SRM), motivated by principles and various aims to be achieved and within a wide range of differences in the subject of protection and areas of regulation. Inconsistency can not only be found in the unclear definition on the phenomenon of disability and the meaning thereof, but also in essential principles, involved institutes and aims of these laws.

Through the course of time, this created the cessation (more specifically, non-functioning) of certain mechanisms and institutes (e.g. the Commissions for Determining Disability, which the Government has not been able to persuade to work even though there have been three separate statements issued on this). Also, no new mechanisms have been created (regardless of numerous declarative commitments made). An example of this is Article 1 of the Constitution of the Republic of Macedonia. Another example is the Law on Social Protection; in spite of recent modifications, individual allowances provided on the basis of disability continues to be confusing and excluded from group allowances provided to a family where a person with a disability resides.

Another important issue that is a direct consequence of legislation which is non-systematic and not in harmony with legislation in this area is the inter-discrimination of persons with disabilities, whereby legislators tend to separate individuals with the same type of disability and health problems that refer to the manner and the time the disability was acquired. These are examples of the reasons for disability, and as such, instead of being a basis for creating a preventive role of the State, constitute basis for direct discrimination.

This discrimination trend also continues with the recent amendments to the Law on the Employment of Persons with Disabilities; namely, if a person with a disability wishes to be a proprietor or manager, they must go before a medical commission for an assessment of their managerial abilities (an action not required by law nor applicable to any other individual in the Republic of Macedonia).

In assessing the current situation, one must mention the responsibility of the state to take into account, when adopting laws and determining the rights and responsibility of citizens, the (in)equality of opportunity of these privileges. Therefore, the participation of persons with disabilities, their families and organizations active in this area is a significant mechanism when drafting contemporary legislation and monitoring the enactment process. The statement "Nothing for Us, Without Us" is not only a slogan, but a responsibility and a protective mechanism that is not explicitly mentioned in current Macedonian legislation, but has been partially implemented thanks to only a few high officials with more advanced views.

The state has been making daily efforts to improve the body of law in this area, but success has been minimal, if not contradictory. An example of this is included in recent modifications to the Law on the Employment of Persons with Disability (implying that our country was a leader in the region in the resolve of this issue). The intention to further limit

the abuse of funds from the Special Fund for the Employment of Persons with Disabilities has merely opened another, even bigger, door for the same kinds of manipulation.

To provide a clearer picture of the situation in this area, one must also mention the research (survey) carried out to determine the situations and the possibilities of including persons with disabilities into mainstream social life; this research was carried out by the Technical Committee of the Inter-Party Parliamentarian Lobby Group for the Protection of Persons with Special Needs in co-operation with 23 non-governmental organizations working in the area of disability. The survey was carried out between June and September 2005 by a representative sample of 1670 respondents. Its results showed that 69% of the respondents held the view that they had been completely marginalized in terms of their place and status in society and 57% of the respondents believed persons with disabilities never have the opportunity to exercise their rights as citizens, as they are always viewed as second-class citizens.

The results of this survey indicate the direction in which the state must move and the specific actions it will need to take. While only 9% of the respondents were persons with disabilities, 88% of them were of the opinion that certain benefits are necessary to provide for equal opportunity of persons with disabilities.

A final sample from this survey, perhaps the most important information behind this rationale, is the question on how satisfied citizens were with the current regulations related to persons with disabilities. Only 4% of the respondents said they believed the state was capable of actively protecting the rights and dignity of persons with disabilities through amendments to current legislation. Some 71% of the respondents held that, in order for such legislation to become a reality, a special law had to be adopted for the protection of the rights and dignity of persons with disabilities.

This inevitably imposes the need for the state to take concrete, positive action in this area to develop systematic legislation to treat persons with disabilities as the subject of its protection. The state must provide clear and unambiguous definitions of its policy, thereby gradually building a system to ultimately enable total equality in the status and opportunities provided for this class of citizens.

THE GOAL TO BE ACHIEVED BY REGULATING EXISTING RELATIONS IN THE MANNER PROPOSED

The Republic of Macedonia's strategic commitment toward Euro-Atlantic integration and its membership in the United Nations has imposed the need for harmonized, national legislation adhering to it and the ratifying of international documents adopted by relevant bodies as well as applying relevant international instruments. In accordance with Article 68 of the Stabilization and Association Agreement signed between the Republic of Macedonia and the European Union, the Republic of Macedonia must recognize the importance of adapting its current legislation to be able to maintain the international trends in this area.

A comparative analysis:

While laws against discrimination are not the sole manner in which to achieve equality for persons with disabilities, the fact remains that over the last few decades, more than 40 countries – members of the United Nations, have adopted anti-discrimination laws directed at persons with disabilities. It should be noted that these laws against discrimination based on disability have been a new development in policies, addressing disabilities worldwide. These laws represent the legal implication of a shift from a medical to a social approach on disability. The legal treatment of disabilities as the object of discrimination implies the recognition of the fact that persons with disabilities are persons with rights and not persons posing problems.

The countries that have adopted various forms of legislation against discrimination have been using one of four available approaches/models to deal with the discrimination issue: criminal law, the Constitution, civil law and social protection laws.

1. **France, Finland, Spain and Luxembourg** prohibit discrimination of persons with disabilities in their criminal laws. Spanish law prohibits discrimination based on disability in the case of a lateral or higher job promotion, or when recruiting staff, should the potential candidate for the job be a person with a disability who is capable of performing the tasks of the job in question. Luxembourg and France prohibit discrimination based on disability for employment, when conducting business and when providing goods and services to the public. The punishment is imprisonment of up to two or three years or a fine. Finnish criminal law specifies these forms of punishments to be applied in cases of discrimination for employment or when providing goods and services to the general public.

Other states have abided by civil or social legal regulations against discrimination based on disability and have prescribed criminal and administrative punishments in cases of violations to such regulations.

2. In some countries, there are constitutional provisions against discrimination based on disability explicitly listing disability types. These countries are: **Austria, Brazil, Canada, Finland, Fiji, Gambia, Ghana, Malawi, New Zealand, South Africa, Switzerland and Uganda**. The clauses contained in the legislation of these countries generally prohibit (negative) discrimination against persons with disabilities, but do not specifically define the meaning of the notion of discrimination. The provisions in these legislative systems enable legislators to take affirmative action in the fight against persons with disabilities. In these cases affirmative action aims at structural discrimination, which is one of the major barriers in providing for equal opportunity for persons with disabilities.

Constitutional clauses appear to have a greater effect than criminal law clauses in the fight against discrimination in transitional countries. Since the Constitution is the supreme legislation in most countries, constitutional amendments are granted the highest level of legal power and receive greater public attention than other laws. Nonetheless, there are several reasons as to why constitutional legislation against the discrimination of persons with disabilities has had such minimal effect. Rights regulated by constitutions are only applicable within so-called vertical legislation; in other words, constitutional provisions protect persons with disabilities against discrimination by state services, but not against discrimination by individuals. Finally, constitutional provisions are very often broad and not specific enough. Neither have disability types nor have kinds of discrimination been precisely defined in any of this constitutional legislation, with the exception of the constitutional law in New Zealand, which gives greater discretionary powers to courts.

3. The third approach includes the adoption of civil legislation against the discrimination of persons with disabilities. Such legislation has been adopted by several states, and there has been a tendency of an increasing number of countries to follow this trend. The most comprehensive laws against discrimination based on disability can be found in the legislation of **Austria, Canada, Hong Kong, Philippines, Great Britain and the United States**. Countries with continental legal systems do not have the experience of applying measures in this area, as opposed to countries that adhere to an Anglo-Saxon legal system. Efforts made to adopt this *lex generalis* (systemic legislation) on the rights and dignity of persons with disabilities in the Republic of Macedonia, therefore, represent an important initial step for improving this picture on a global level.

Compared to criminal and constitutional legislation in the area of discrimination against persons with disabilities, civil law legislation has been more detailed regarding the scope of application. Most of these laws provide definitions of discriminatory behavior and equality. In addition, all civil law legislation against discrimination based on disability contains provisions defining the mechanisms of their enactment, which is crucial for its implementation.

4. Finally, some countries have chosen to approach the issue of prohibiting discrimination based on disability in a traditional manner, which is through laws on the social protection of persons with disabilities. These countries are: **Bolivia, China, Costa Rica, Korea, Nicaragua, Panama and Spain**. Albeit in an unorganized and incomplete manner, the Republic of Macedonia may also be said to have embraced this "traditional" manner of dealing with this issue. Based on what has been stated earlier, it may be concluded that countries with continental legal systems are quite often inclined to use this approach in dealing with issues related to disability.

In these legislative systems, provisions against discrimination are found adjacent to the more traditional ones on disability prevention and rehabilitation. These laws mainly focus on social services and integration principles rather than on rights based on provisions against discrimination as such. Provisions against discrimination in the legislation on social protection tend to be unclear and limited to one area only. Provisions against discrimination contained in social protection laws are not comprehensive nor reform oriented. The shift to treat disability away from the medical point of view, to that of human rights one seems to be more difficult to note in such legislation.

To **summarize**, it can be concluded that the most comprehensive legal approach for the purpose of prevention and protection against discrimination based on disability is found in civil laws. The enactment of laws is usually the task of public administration institutions and courts. Legislation that strives to carry out a transformation in a specific area of society, such as in the area of human rights, or includes laws against discrimination, usually establishes a kind of mechanism for protection and security, i.e. specialized enactment bodies. This may be a human rights/equal opportunity commission, a specialized Ombudsman, a national council or an agency. In the legislation related to disability mentioned above, only civil laws and social protection legislation contain some of the provisions for law enactment and the monitoring thereof. Modern laws against discrimination based on disability adhere to the principles of desegregation, deinstitutionalization and the responsibility of providing for reasonable adaptation, which will mean the abolishment of structured discrimination.

The Convention:

Persons with disabilities should enjoy all human rights that are guaranteed through a corpus of universal instruments in the area of human rights and basic freedoms. However, in practice, these individuals face discrimination. This is why a mandatory agreement is required to provide persons with disabilities the opportunity to fully enjoy the rights they possess *per se*. For this reason, through an initiative raised by Mexico, the United Nations General Assembly adopted Resolution 56/168 by consensus, providing for the establishment of an *ad hoc* Committee to draft a proposal for a comprehensive and integral international convention on the protection and promotion of the rights and dignity of persons with disabilities in December 2001. The proposal from this Convention is currently the most important human rights agreement the UN has worked on and has been the focus of attention for human rights experts and activists worldwide. Because of this, the adoption of this proposed Law, which is compatible with the principles stated in this Convention, the Republic of Macedonia has the rare opportunity to become a leader in the Region in all areas pertaining to the protection of rights of persons with disabilities. This can also be confirmed by the norms that cover anti-discrimination provisions, but more importantly, through the affirmative action that the state is obliged to undertake in all spheres of social life.

While human rights have been regulated on an international level, it is the countries that are the key protectors and promoters of this. The process of transforming a vision into a special policy and action plan is individual and particular to each country, whether it be an industrial or a developing one. The existence of the principle of legal equality, legal remedies and additional actions that countries can undertake, represents a basis of where to start in improving the conditions of persons with disabilities.

The structure of the Law and the aims and areas expected to be reached:

The Law on the Protection of the Rights and Dignity of Persons with Disabilities, the adoption of which is hereby proposed, shall adhere to international norms and standards as well as experience gained and successful examples of the enactment of similar legislation in other countries. In the drafting of this proposed law, resolutions applied in several other countries, as well as the specific nature of the country's national legal and political systems have been taken into account.

The *first part* of the Law includes the **general principles** and stipulates the direction the Republic of Macedonia must take in regards to the protection of the rights and dignity of persons with disabilities: the role of the state, the subject of protection i.e. rights and dignity rather than a person with a disability as such, the aims and principles to be considered in the adoption of this Law, the approach to the disability issue, raising public awareness and the co-operation with organizations of persons with disabilities.

With the adoption of these provisions, the state will identify a comprehensive approach for a legislative solution to problems in this area and a basis for legal interpretation will be provided on issues as well as further upgrading to the legal system as such.

The *second part* determines the position of the state; it specifically sets out the **prohibition of discrimination** on the basis of disability. In this regard, the Law functions as a standard anti-discrimination law.

A current trend in Europe and in the region has been the adoption of anti-discrimination laws aimed at protecting the rights and inherent dignity of persons with disabilities. There are currently two initiatives on this matter in the Republic of Macedonia and two draft versions have been developed for a general Law on the Prohibition of Discrimination: one draft by the Helsinki Committee for Human Rights in Macedonia and the Institute for Sociological and Juridical Research and the other by MCIC. Both draft texts include provisions related to persons with disabilities and both encourage the adoption of more specific regulations against the discrimination of certain citizen classes, because of the specific nature of these target groups.

The *third part* includes the areas of protection; it stipulates **affirmative action** that the state is obliged to undertake. This specifies the areas of protection, particularly those areas where the state is obliged to take affirmative action such as health care and rehabilitation, employment, education, social protection, accessibility, political participation, housing and culture, leisure, and sports.

It should be noted that, through the norms proposed to be introduced into all spheres, an effort is being made to take a significant step forward and, through following international standards, to establish models for the further regulation of efforts the state is to make in each area. Some of these measures serve to minimize any further erosion of the positive measures the state has managed to maintain in its existing system. This area of the Law will certainly initiate the adoption of additional legislation, but will also bring about the highest cost for law enactment.

The *fourth part* sets out the **regulation mechanism**, where the principle players are the Governmental Co-ordination Body for Providing Equal Opportunity to Persons with Disabilities and the Assembly of Organizations of Persons with Disabilities. Both governmental and non-governmental activities have been included to provide for the integral nature of this kind of regulation.

Further regulatory activities address the responsibility for the gathering, processing and utilization of specific statistical data on persons with disabilities in the Republic of Macedonia, as well as for carrying out research programs on socio-economic issues. Determining disability type and degree of impairment and hindrance in performing daily activities and functions on an individual basis that is to be performed by a special

Commission for Determining Disability to be established for that purpose, has been stipulated as the second part of the regulation mechanism. The Governmental Co-ordination Body for Providing Equal Opportunity to Persons with Disabilities has been re-designed through this Law; its competencies and area of activity have been broadened to allow for further growth into what its very name implies – a co-ordination body i.e. the co-ordinator of relevant efforts on the level of central government, while concurrently available and willing to listen to the voice of the non-governmental sector as well, which will not release the central government from its primary responsibility. This Law also establishes the Assembly of Organizations of Persons with Disabilities, so as to unite the efforts of persons with disabilities in regard to key problems and to co-ordinate the activities (for the purpose of this Law) of all organizations of persons with disabilities.

The idea behind specifying these relationships is to create more areas (rather than one centralized body) whereby the check and balance principle will be used by the main players in the system. This is where the provisions of this Law stem from, thereby becoming the basis for the carrying out of activities of public interest by civil society. It is also intended to resolve the currently difficult issue of representation of organizations of persons with disabilities.

The *fifth part* regulates the second mechanism proposed to be introduced by this Law, which is the protection mechanism and is primarily provided for through the Commission for the Protection of Rights of Persons with Disabilities. The Commission is expected to be active in several areas: protection against injury caused by general activity, that are adopted and exist in the national legislation, providing legal assistance and representation in individual injuries cases *in concreto*, raising public awareness and the promotion of the subject of protection in this Law and the monitoring of the enactment of this Law and acts to be derived from it. As an expert body, and in addition to its regulatory legal function and assistance provided in cases of individual injury, the Commission is to take part in the process of further developing positive trends in the area. This mechanism also determines the relationship between this body and the Ombudsman, the protection of the rights and dignity of persons with disabilities on the local level and limited application of the public lawsuit institute (*actio popularis*), something uncharacteristic in the continental legal system, which the Republic of Macedonia has.

The *sixth part* sets out the last mechanism to be introduced by this Law – the **security mechanism**. So that this Law does not remain on paper only, the proposer of this Law identifies ways for financing its enactment. The Fund for the Rights of Persons with Disability is to be established for this purpose and foreseen as the financial servicer of the system i.e. the financial servicer to key bodies and entities to be established by this Law. There is also the possibility of providing financial support to NGOs on the basis of NGO program activities by the Fund.

Adoption and enactment of the National Strategy for Providing Equal Opportunity to Persons with Disabilities in the Republic of Macedonia have also been regulated here, as well as the submission of central government reports and the experiences of the NGO sector in this area. A National Strategy is to be adopted for a period of six years, but may be modified in accordance with prevailing circumstances, which makes the National Action Plan, to be adopted for a period of six years and revised and updated every two years, an integral part of it. As such, a National Strategy will not merely be declarative, as its Action Plan will determine time frames of implementation, and pose time limitations for the enactment of the Strategy.

The *seventh part* stipulates the **penal provisions**. In view of the current penal provisions for this type of legislation, the proposed penal provisions are foreseen to be strict and contain the element of qualification. Sanctions foreseen by the provisions of this Law include imprisonment, fines, education and protection measures. Penal provisions are

essentially set out on three levels: para-penal sanctions, restitution, protective measures (the revoking of operational licenses and permits).

Finally, the *eightth part* includes **transitional and final provisions**. These regulate the subsequent steps the state must take in providing for fundamental national legislation in the spheres of interest, with the aim of creating concrete pre-conditions for the enactment of this Law.

The point of laws of this type is the fact that they are expected to bring about the adoption of an entire series of primary and secondary legislation and amendments to the current legislation. In order to achieve successful enactment, this Law sets out an extensive time frame of implementation of five years. However, in addition to the initial establishment of bodies to represent the regulation mechanism in the gradual process of new legislation adoption, the most important role will be given to the drafting of a new Strategy and Action Plan that will define the players and time frames for new legislation enactment.

FUNDS REQUIRED FOR ENACTMENT OF THIS LAW

The enactment of any law requires funding. The *sixth part* of this Law sets out the last security mechanism introduced by this Law. Through it, current state budget allocations (primarily a portion from revenue gained from games of chance) will be properly distributed to provide for a financial basis for the enactment of the Law on the Protection of the Rights and Dignity of Persons with Disabilities.

Activities in the *third part* (affirmative action on the part of the state), which is to be introduced gradually, will be financed from the Budget of the Republic of Macedonia.

THE INITIATOR TO THE AUTHORIZED PROPOSER – 10,000 CITIZENS:

**Skopje
September 15th, 2005**

**POLIO PLUS
- Movement Against Disabilities**