



Written comments by the Mental Disability Advocacy Center

Submitted to the UN Committee on the Rights of Persons with Disabilities

On its Day of General Discussion on Article 9, the right to accessibility, of the Convention on the Rights of Persons with Disabilities, 7 October 2010

1. The Mental Disability Advocacy Center (MDAC) is an international human rights organisation which advances the rights of children and adults with intellectual disabilities and psycho-social disabilities. MDAC uses law to promote equality and social inclusion through strategic litigation, advocacy, capacity-building and research.
2. States are obliged by Article 4(1) to provide Convention rights “without discrimination of any kind on the basis of disability”, yet MDAC has found that people with intellectual disabilities and people with psycho-social disabilities are sometimes left off the agenda by States when they consider accessibility issues.
3. Accessibility is one of the keys for people with disabilities to be fully and effectively included in society by exercising their individual autonomy. Denial of accessibility can result in segments of society being excluded from services intended to be utilised for the general population.
4. Removing physical barriers is necessary but not sufficient. So whilst the provision of ramps, Braille signs, and audio announcements are welcome developments, people with intellectual disabilities, for example, may need to have information in plain-language or in easy-to-read formats. People with psycho-social disabilities may need access to a support person in order to exercise their rights.
5. Article 49 of the CRPD contains an important provision requiring the CRPD text to be made available in accessible formats. Some countries, for example Hungary, have created easy-to-read versions, making it possible for people with intellectual disabilities to learn about CRPD provisions.
6. Accessibility is one of the general principles of the CRPD (Article 3 (f)). As such the principle must be applied to each article of the CRPD, and each of the provisions should be read through the lens of accessibility. Article 9 does not stand-alone, but is a cross-cutting provision connected to legal capacity (Article 12), access to justice (Article 13), living in the community (Article 19), and political participation (Article 29), which we address in turn.



Right to legal capacity

7. Article 12 of the CRPD obliges States Parties to “[t]ake appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity” (Article 12(3)). Because supported decision-making is not accessible to all people who need it, the full and effective implementation of the Convention and the principle of equality (Articles 5 and 12 (2)) is not realized.

Access to justice

8. Under Article 13 States must “ensure effective access to justice for persons with disabilities on an equal basis with others...” (Article 13(1)). People with psycho-social disabilities and intellectual disabilities face multiple legal, attitudinal and environmental barriers from accessing justice. In its March 2008 landmark ruling in *Shtukaturov v. Russia*, the European Court of Human Rights criticised the Russian legislation which prevented people without full legal capacity from bringing cases to local courts to address allegations of rights violations. Creating accessible justice systems means pursuing law reform to remove legal barriers, as well as providing assistance and supports to those who need it.

Right to live in the community

9. Article 19 of the CRPD provides for “full inclusion and participation in the community” through choice, access to specialised services and those for the general population. MDAC has found that many services for the general population – including social housing, healthcare, dental care, social services, child protection, shelters for battered women – sometimes exclude people with diagnoses of mental illness or intellectual disabilities, and as such are inaccessible to certain people with disabilities.

Right to political participation

10. States must ensure that persons with disabilities “can effectively and fully participate in political and public life on an equal basis with others” and that this can be done by “ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use.” (Article 29(a)(i)). In May 2010 the European Court of Human Rights in its *Kiss v. Hungary* judgment, found that an absolute ban on voting by a person deprived of legal capacity, irrespective of the person’s actual capabilities, constitutes a violation of Article 3 to Protocol No. 1 to the European Convention on Human Rights (right to free elections). Political processes therefore need to be made accessible in terms of law, information and appropriate forms of assistance and support.