



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Eleventh session

Summary record of the 127th meeting

Held at the Palais des Nations, Geneva, on Wednesday, 2 April 2014, at 3 p.m.

Chairperson: Ms. Costernas Reyes

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The meeting was called to order at 3.15 p.m.

Consideration of reports submitted by States parties under article 35 of the Convention (*continued*)

Initial report of Costa Rica (CRPD/C/CRI/1; CRPD/C/CRI/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Costa Rica took places at the Committee table.*
2. **Mr. Guillermet-Fernandez** (Costa Rica) said that Costa Rica was committed to working hand in hand with all stakeholders to fully implement human rights, including the rights of persons with disabilities. Countless challenges nonetheless persisted; some progress had been achieved but much remained to be done. The Government intended to improve its policies and strive wholeheartedly to implement the Committee's future recommendations.
3. **Mr. Rodríguez Gutiérrez** (Costa Rica) pointed out that, although Costa Rica had not ratified the Convention until 2008, it had in fact been taking measures in favour of the rights of persons with disabilities since 1996, in particular by adopting Act No. 7600 on Equal Opportunities for Persons with Disabilities and by following an approach that was based no longer on rehabilitation but instead on human rights. In 2001, the Government had adopted Directive No. 27 on the establishment of institutional commissions on accessibility and disability. Municipal disability commissions had also been set up pursuant to a revision of the Municipal Code in 2009. Furthermore, the Government had enacted a law requiring that a certain percentage of jobs should be reserved for persons with disabilities, which was a particularly significant piece of legislation in view of the fact that so many of those affected lived in poverty. In 2013, the Government had also enacted a law setting up the institutional commissions on accessibility and disability.
4. Among the policies put in place by the Government, the main objective of the National Policy on Disability (2011–2021) was to ensure that all institutions took up the issue of disability. Lastly, persons with disabilities had actively participated in the preparation of the initial report.
5. **Ms. Quan-Chang** (Country Rapporteur) said that the State party should as soon as possible adopt a law prohibiting discrimination on the grounds of disability in all areas and explicitly defining the refusal to provide reasonable accommodation as a form of discrimination against persons with disabilities. It was hoped that the bill on the autonomy of persons with disabilities, which would facilitate the implementation of several provisions of the Convention, would be enacted very shortly.
6. In view of the fact that the Civil Code allowed for persons with disabilities to be deprived of legal capacity, in breach of article 12 of the Convention, the Committee wished to know how many persons with a psychosocial disability were denied the right to vote. It would also like to know more about the accessibility of the electoral process, in particular how persons who were deaf or blind, or both, and those with a psychosocial disability accessed information. The Committee was concerned at the lack of information on persons with a psychosocial disability who were involved in the perpetration of offences but who were deemed not responsible and placed in a psychiatric institution. The Committee was also concerned by reports that women with disabilities, especially those with a psychosocial disability and those who were deaf or blind or both, were subjected to forced sterilization. Lastly, it was concerned at the adoption in November 2013 of Act No. 17777 on biomedical research, which gave the guardians of persons with disabilities deprived of legal capacity the authority to authorize medical experiments on their wards without the latter's free and informed consent.

7. **Mr. McCallum** wished to know when the State party intended to update its anti-discrimination legislation to incorporate the concept of reasonable accommodation, thereby bringing it fully into line with the provisions of the Convention.
8. **Mr. Ríos Espinosa** asked whether the National Policy on Children and Adolescents (2009–2021) took into account children with disabilities. He invited the delegation to comment on the complete lack of reference to women with disabilities in the Act on domestic violence.
9. **Mr. Tatić** enquired about the prerogative of the municipal disability commissions and the institutional commissions on accessibility and disability, as well as the financial and human resources at their disposal. He also asked what penalties were applicable to and were actually imposed for non-observance of rules on the accessibility of persons with disabilities to their physical environment, transportation, services, information and communications.
10. **Ms. Degener** asked whether the State party intended to adopt a national plan of action to combat the multiple forms of discrimination against women with disabilities and guarantee their autonomy. She also asked whether any steps had been taken regarding the 2011 recommendation by the Committee on the Rights of the Child (CRC/C/CRI/CO/4) to ensure that schools and classrooms were physically accessible to children with disabilities and to prioritize the gradual implementation of inclusive education for those children, including through teacher training.
11. **Ms. Mulligan** asked what measures the State party had taken to promote and protect the rights of indigenous persons with disabilities and to combat violence against women with disabilities.
12. **Ms. Peláez Narváez** requested further information on the measures planned for improving the situation of women with disabilities. She asked how many deaf or blind children lived in the State party and how many of those were enrolled in school.
13. **Mr. Torres Correa** asked whether article 91 of the Country's Constitution, which authorized the suspension of citizenship by judicial order, had been amended.
14. **The Chairperson**, speaking as a Committee member and referring to the incompatibility of the Act on biomedical research with the fundamental principle of free and informed consent, asked on what grounds the Constitutional Chamber had deemed the law to be constitutional.
15. **Mr. Buntan** asked whether accessibility complied with national or international standards and what rules governed the accessibility of information and communication technologies.

The meeting was suspended at 4.10 p.m. and resumed at 4.35 p.m.

16. **Mr. Guillermet-Fernandez** (Costa Rica), objecting to Ms. Mulligan's observation that the delegation did not include ministerial level representatives, pointed out that Mr. Rodríguez Gutiérrez headed the National Council for Rehabilitation and Special Education, which was the highest national authority on the protection of the rights of persons with disabilities.
17. **Mr. Rodríguez Gutiérrez** (Costa Rica) said that the National Council for Rehabilitation and Special Education and the Supreme Electoral Tribunal had been making every effort since 2010 to facilitate the right to vote and access to polling stations for persons with disabilities. In the context of the current presidential elections, the National Council and the Tribunal had run an information and training campaign for polling station staff and the main political representatives in a bid to address the lack of awareness of accessibility rules among members of the cantonal elections councils, which were made up

of volunteers appointed by the political parties. The Tribunal had set up a toll-free telephone line for the reporting of any irregularities in the elections process. The National Council for Rehabilitation and Special Education had met with the teams of the candidates remaining in the second round, scheduled for 6 April 2014, to discuss the need to mainstream disability issues into all aspects of future Government programmes and of the country's development policy. Thanks to the municipal disability commissions, established pursuant to the Act amending the Municipal Code, disability issues were a regular item on the agenda of local authorities. However, the commissions suffered from limited financing and poor coordination of their annual and multi-annual work programmes.

18. Generally speaking, actions to defend the rights of persons with disabilities should be carried out more coherently and regularly at all levels of the administration. To that end, persons with disabilities were invited to participate in the accessibility commissions and act as expert advisers to local authorities. Act No. 1700 on equal opportunities provided for the establishment of dissemination committees responsible for informing persons with disabilities more widely and efficiently about the provisions and measures that concerned them. The National Council for Rehabilitation and Special Education currently had four members and four substitutes with disabilities, who were active participants in decision-making and hence in the implementation of the Convention. Replying to Ms. Peláez Narváez's question, he said that only the Helen Keller Institute provided education to persons who were both deaf and blind. The Institute had a very limited budget and, because of its location in the capital, it was difficult for persons with disabilities from other parts of the country to access it without financial assistance. Persons with visual impairments represented a little over 5 per cent of persons with disabilities.

19. **Mr. Azofeifa Murillo** (Costa Rica) said that the delegation would probably not have all the updated information to provide detailed answers to some of the Committee's questions. Congress was currently considering a bill to amend the Act of 1973 establishing the National Council for Rehabilitation and Special Education, that would increase its powers and convert it into a national disability council. Regarding the harmonization of laws, efforts were being made to inform lawmakers of disability-related needs and remove from laws and the discourse of State officials certain derogatory and discriminatory terms with respect to persons with disabilities. The Act on biomedical research had been strongly opposed by institutions, including the National Council, and civil society. The Constitutional Chamber had nonetheless recently ruled that the Act was not unconstitutional, provided that procedures were carried out for therapeutic purposes and had a direct beneficial effect on the health of those undergoing them.

20. He acknowledged that the guardianship system was incompatible with the provisions of the Convention, but said that the State was no longer authorized to appoint a guardian to assist persons with disabilities in making decisions. Guardians were appointed for the purpose of estate management only. The bill on the autonomy of persons with disabilities, currently under consideration, should be refined to allow persons with disabilities to be guided and advised during procedures by a trusted individual instead of by a person who, like in the guardianship system, substituted for them in the decision-making process. The Act on Equal Opportunities for Persons with Disabilities required the provision of reasonable accommodation in public spaces. However, since the concept of "reasonable" was not defined by law, the organizations concerned were free to decide the type of accommodation needed and did not always uphold the relevant guidelines.

21. Pursuant to new regulatory requirements, a quota of properties, including newly built social housing, must be accessible to persons with disabilities. Moreover, such persons could receive State welfare payments if they demonstrated that they did not earn enough to attain a decent standard of living. There was a legal gap in the enforcement of accessibility rules: financial penalties were incurred if regulations were not complied with, but no

authority had been designated to collect the fines. Since 2014, all buses and coaches operated by companies contracted by a public authority had been obliged to comply with accessibility rules for persons with disabilities, failing which they lost their operating licence. To date, approximately 40 per cent of buses were entirely accessible. The Ministry of Health was responsible for checking that municipalities observed accessibility rules in public spaces, administrative offices and businesses. Persons with an intellectual disability who were in conflict with the law used to be committed to the national psychiatric hospital, without an expert psychiatrist having ascertained their state of mental health. The system was prone to abuse and some offenders managed to escape justice and avoid serving a prison sentence. In 2010, following a case in which a person with disabilities placed at the hospital had been sexually assaulted, the Government had opened a psychiatric detention centre that provided psychiatric care and treatment, in a closed setting, to offenders with disabilities. Upon their release, they could be placed in a family environment and receive personalized care with a view to their social reintegration.

22. **Ms. Solano Murillo** (Costa Rica) said that, although considerable progress had been achieved in preventing and punishing violence against women with disabilities, much remained to be done in order to guarantee them equal access to health care and to change public attitudes. Inclusive education was fairly widespread in preschool and primary education, but significantly less so at the secondary level, where improvements were needed. Although there was no specific organization representing children with disabilities, their protection was ensured by the National Child Protection Agency. Much remained to be done to convince organizations dealing with the protection of vulnerable groups, such as indigenous peoples and women, that they should also undertake to protect members of their own groups who had disabilities. There were in fact few statistical data on discrimination against indigenous women with disabilities which made it difficult to take measures to improve their lot. She hoped that the upcoming establishment of the National Disability Council would increase the protection provided to persons with disabilities in all areas and that a multidisciplinary approach, rather than a purely medical one, would be adopted, in keeping with the rights enshrined in the Convention.

Articles 11 to 20

23. **Mr. McCallum** requested additional information regarding the bill on the autonomy of persons with disabilities and, more specifically, on any changes to the guardianship system. Were there plans to replace the substitute decision-making system with one of assisted decision-making in the exercise of legal capacity, in line with article 12 of the Convention?

24. **Mr. Tatić** said that the bill on biomedical research was in patent breach of article 15 of the Convention and hoped that it would not be adopted in its current form. He invited the delegation to provide further information on the measures the State party intended to take to enforce accessibility rules and asked whether the bill on the autonomy of persons with disabilities included the provision of personal assistance services.

25. **Ms. Degener** asked whether official websites were accessible to persons with disabilities and whether electronic media were obliged to adhere to accessibility rules.

26. **Ms. Peláez Narváez** asked whether the State party intended to align the provisions of the Code on Children and Adolescents with those of articles 24 and 7 of the Convention. She wished to know whether there were plans, in the law punishing domestic violence to repeal, the obligation for persons with disabilities to call on another person to file a complaint on their behalf. She asked whether social services or the police were under the obligation to go to victims' homes to take their statements when they were unable to travel. She invited the State party to review the terminology used in article 184 of the Criminal Code, which punished the abduction of minors or persons "deprived of willpower or

cognition". Lastly, she wished to know whether there was an emergency telephone number for sign-language users.

27. **Mr. Ríos Espinosa** asked whether the State party intended to harmonize its entire legal and legislative framework to bring it into line with the Convention.

28. **Mr. Kim Hyung Shik** invited the delegation to comment on the measures taken to implement the obligations under article 19 of the Convention and to indicate how many persons with disabilities were currently institutionalized.

29. **Mr. Buntan** asked whether the State party had set up a disaster mitigation plan that took into account considered the needs of persons with disabilities.

30. **Ms. Quan-Chang** asked whether it was true that persons with disabilities, especially indigenous persons, had trouble obtaining bank loans and even opening bank accounts, in breach of article 12, paragraph 5, of the Convention.

The meeting rose at 6 p.m.