



# 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 128th meeting

Held at the Palais des Nations, Geneva, on Thursday, 3 April 2014, at 10 a.m.

*Chairperson:* Ms. Cisternas Reyes

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*The meeting was called to order at 10.10 a.m.*

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

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

1. *At the invitation of the Chairperson, the members of the delegation of Costa Rica took places at the Committee table.*

*Articles 11–20*

2. **Mr. Rodríguez Gutiérrez** (Costa Rica), responding to a question that had been posed earlier on accessible banking for persons with disabilities, said that a variety of measures had been taken to provide greater access to a range of financial services. Efforts had been made to ensure that automatic teller machines around the country were accessible for persons with visual impairments, for example. Counters in branch banks had also been adapted to make them more accessible to persons with disabilities. However, there was no overarching government policy in that regard, and much remained to be done in order to ensure, for example, that persons with disabilities had access to loans for housing or services that would give them greater autonomy.

3. On the issue of risk reduction, since the time that the State party report had been prepared, an agreement had been concluded between the National Council on Rehabilitation and Special Education and the National Emergency Commission, which was the lead agency in that area. Under that agreement, the disability perspective would be incorporated into all protocols and other instruments at the national level, and training would be provided to ensure that the needs of persons with disabilities were taken into account.

4. Costa Rica had a digital government programme which provided direct links to all public institutions. The service, which was attached to the Office of the President, did not have sufficient funding or staff, however, and was in need of improvement. The National Council on Rehabilitation and Special Education had issued guidelines for all levels of government on the accessibility of websites and other sources of information. Unfortunately, the information technology unit had only two people to work on service accessibility for the entire country, so the guidelines had not been followed up on as well as might have been hoped. The guidelines also covered the direct provision of information in an adapted format for persons with visual impairments who visited public institutions. Work was under way to accredit sign language interpreters with a view to developing a larger pool of professionals to work with public institutions so as to ensure the right to use sign language. Costa Rican sign language had been recognized as an official means of communication in July 2013.

5. **Mr. Azofeifa Murillo** (Costa Rica), responding to questions on legal capacity, said that, in line with the Convention, the State party had sought to establish a mechanism to remove the institution of guardianship from its legal system, which was unacceptable from a human rights perspective. The bill on personal autonomy of persons with disabilities, which had been drafted at the initiative of a group of persons with disabilities in consultation with various stakeholders, provided for a range of support services to enable persons with disabilities to exercise their rights autonomously and make their own decisions in keeping with their circumstances. The original version of the bill had provided only for the services of a defender to support persons with disabilities if their rights were violated. Under the amended text, however, provision was made for a facilitator to support autonomous decision-making by persons with disabilities. The State would draw upon a

pool of accredited professionals to serve as facilitators for persons who did not have their own person of trust.

6. A range of sanctions for violations of the rights of persons with disabilities was in place, but in practice they tended to be symbolic. The fines were not large enough to serve as a deterrent, and the law did not specify which body was responsible for imposing and collecting fines or how those funds should be used. A bill had been drafted to remedy those shortcomings. The new bill, which was currently under consideration by Congress, established that all fines for violations of the rights of persons with disabilities or acts of discrimination would be collected by the National Council on Rehabilitation and Special Education and that the revenue would be invested in services for persons with disabilities. Fines for violations by transport providers would be collected by the Ministry of Transport.

7. Under the law on violence against women, acts of violence committed against women with disabilities, regardless of whether they were temporary or permanent, full or partial disabilities, were classified as aggravated offences. Judges were also afforded a degree of flexibility in ordering atypical measures in such cases in order to provide greater protection for such women. Under the law on sexual harassment in employment and education, requests for protection measures on behalf of persons under the age of 12 or persons with an intellectual impairment must be lodged by that person's representative. A case had been brought before the Constitutional Court in 2006 in an effort to have the article in question declared unconstitutional and in contravention of the international human rights instruments ratified by Costa Rica. However, the Court had ruled that the provision was not unconstitutional. It had reasoned that the provision simply extended protection to individuals who did not have the capacity to request protection measures on their own.

8. **Ms. Solano Murillo** (Costa Rica) said that the bill on personal autonomy of persons with disabilities contained provisions on personal assistance services. The bill had involved a complicated, long-term effort and had already gone through a series of amendments. All parties concerned now hoped that it would soon be passed into law. In the meantime, there was already a good deal of assistance available. A family living programme provided for accommodation and support for adults with disabilities who had been abandoned, who did not have any family to assist them, or who had grown up in State care. There were a number of models to cater for persons with varying levels of autonomy. The bill also contained provisions on the promotion of employment and study opportunities.

9. The National Council on Rehabilitation and Special Education had temporary shelters for women with disabilities who were victims of domestic violence, although they could not take their children with them. The National Institute for Women also had shelters, but none were fully accessible to women with disabilities. Legislation would have to be revised to ensure that such gaps were closed. She welcomed the comments and concerns expressed by members of the Committee in relation to some of the terminology in the Code on Children and Adolescents, which would be taken into account. The Committee's recommendations regarding the availability of sign language interpreters in emergency situations would be very helpful in raising awareness of the needs of deaf persons in Costa Rica and in highlighting such issues.

*Articles 21–33*

10. **Mr. McCallum**, referring to the low employment rate of persons with disabilities, said that Act No. 7600, which dealt with equal opportunities for persons with disabilities and included provisions on the right to employment, did not provide for situations in which persons with disabilities might need reasonable accommodation in order to obtain employment. He therefore wondered whether there were any plans to amend that law or draft a new one to increase job opportunities for persons with disabilities. He would also

welcome information on existing or planned government programmes to raise the employment rate of persons with disabilities.

11. **Mr. Ríos Espinosa**, referring to article 30, asked whether there were laws dealing with the accessibility of cultural venues, including museums, art galleries, concert halls and cinemas, and how any such legal obligations were fulfilled.

12. **Mr. Tatić**, referring to penalties for violations of accessibility standards, said that he would like to know what steps had been taken to close legal loopholes in that connection. He would also welcome information on plans to convert the Office of the Ombudsman into the type of independent monitoring mechanism provided for in article 33 of the Convention and on cooperation between the National Council on Rehabilitation and Special Education and the Ombudsman.

13. **Ms. Degener** said that she also wished to know whether an independent national mechanism was embedded in the country's mainstream human rights system.

14. **Ms. Peláez Narváez** said that she would like to know exactly what provisions had been removed from migration laws under which applicants for residency who had dependents with disabilities had been required to prove that they had more financial resources than were required of other applicants. Were there plans to amend the laws that restricted the parenthood rights of persons with disabilities and align that legislation with the Convention? Recent figures revealed inconsistencies between statistics generated by the State party, which set the total population with disabilities in Costa Rica at 5.3 per cent, and statistics produced by organizations such as the World Bank and the World Health Organization, which put that figure at 15 per cent. The question arose as to whether the non-registration of many persons with disabilities might not be the reason for that discrepancy. How did the State party go about ensuring that all persons with disabilities were included in public health registers? She would be interested to learn what measures had been or would be adopted to remedy shortcomings in the law concerning the rights of persons with disabilities in respect of programmes to prevent sexually transmitted diseases and HIV/AIDS, decision-making with regard to contraception, access to health campaigns and the right to parenthood. When did the State party plan to update its legislation on health care in order to bring it into full conformity with the Convention? In light of reports that the forced sterilization of women continued despite the fact that it was outlawed, she would appreciate information on the enforcement of the relevant legislation.

15. While the State party was to be commended upon its transition to inclusive education and on the fact that it guaranteed sign language services in schools, there were reports that the actual number of sign language interpreters in the general education system was small. Lastly, were there plans to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled and, if so, within what time frame?

16. **Ms. Mulligan** said that she would appreciate further information on the progress made in upholding the right of persons with disabilities to found a family and on efforts to improve access to health services for persons with disabilities. She would also like details on the inclusion of persons with disabilities in the monitoring of advances towards the Millennium Development Goals and in the State party's poverty reduction schemes, as well as on its commitment to a disability-inclusive post-2015 development agenda.

17. **Ms. Maina** said that a lack of family support was not an acceptable justification for institutionalizing persons with disabilities and therefore depriving them of their liberty; many people with psychosocial disabilities were able to live independently in the community. She would like to know whether the Government's reforms dealing with legal capacity would address the issue of the deprivation of liberty of persons with disabilities and whether steps were being taken to abolish all forms of compulsory treatment for

persons with intellectual and psychosocial disabilities. Furthermore, the legislative reforms on legal capacity should be based on the Convention on the Rights of Persons with Disabilities and on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment rather than on the psychiatric principles and practices set out by the World Health Organization.

18. **Mr. Kim Hyung Shik** said that he would be interested to learn whether the State party planned to develop community-based rehabilitation services, which would be more effective in including persons with disabilities in the community than traditional centre-based rehabilitation arrangements were, and how rehabilitation services would reach persons with disabilities living in remote and rural areas. Further efforts to implement article 32 appeared to be needed, and he would be interested in any examples of persons with expertise in inclusive development efforts who were working on the country's overall plans in the area of international cooperation and development.

19. **Mr. Torres Correa** said that he wished to know what was being done to address the lack of a distinction between intellectual and psychosocial disabilities in the country's legislation and to provide judges, prosecutors and public officials with training on ways of ensuring access to justice for persons with disabilities. He also wanted to know what kinds of treatments were administered in centres for persons with intellectual impairments and whether persons in those centres were held there against their will. Lastly, he would like further details on what kind of instruction on disability issues was provided in institutions of higher learning.

20. **Mr. Buntan** said that he wished to know to what extent persons with disabilities were actively involved in political and public life and whether policymaking and decision-making positions were held by persons with disabilities. He wondered what measures were being taken to guarantee the right to vote of persons with disabilities and to safeguard voting secrecy. Current legislative reforms should provide for the inclusion of representatives of national disabled persons' organizations in the country's national policy committee, since fair representation of persons with disabilities in policymaking was essential in order for their views and needs to be given due weight.

21. **Mr. Mwesigwa** said that he would like to know whether studies had been conducted on the prevalence of HIV/AIDS among persons with disabilities and what measures had been adopted to ensure that such persons had access to HIV/AIDS health services.

22. **Ms. Degener** said that, in the light of recent reports of humiliating and degrading treatment of persons with intellectual and psychosocial disabilities, she wished to know whether a national mechanism for the prevention of torture had been established in Costa Rica and whether it included representatives of disabled persons' organizations.

23. **Mr. Ben Lallahom** said that he wished to know whether the Government worked in partnership with non-governmental organizations to implement its action plans and the Convention and, if so, how the partners cooperated in practice.

24. **Ms. Quan-Chang** (Country Rapporteur) said that she would appreciate learning what was being done to raise awareness among the population of issues related to persons with disabilities, since heightened awareness was vital in order to generate understanding and encourage a paradigm shift in the approach taken to persons with disabilities. Was training on disability issues provided to employers and workers in line with article 27 of the Convention? She would also like to know whether the State party had designated a national mechanism for the prevention of torture in accordance with the Optional Protocol to the Convention against Torture and, if so, what measures were taken to monitor places where persons with intellectual and psychosocial disabilities were deprived of their liberty against their will. What action was being taken to restore the right to vote of persons with intellectual and psychosocial disabilities who were currently not entitled to exercise that

right? Had the National Council on Rehabilitation and Special Education been officially designated as the focal point for matters relating to the implementation of the Convention, pursuant to article 33? She wished to know what guarantees were in place for the participation of disabled persons' organizations in mechanisms to promote, protect and implement the Convention as provided for under article 33, paragraphs 1 and 2. She looked forward to working with the State party to put into effect the recommendations that the Committee would formulate on the basis of the current discussions.

*The meeting was suspended at 11.30 a.m. and resumed at noon.*

25. **Mr. Guillermet-Fernández** (Costa Rica) said that the Ombudsman's Office had been officially designated as the national preventive mechanism. It complied with the Paris Principles and was fully independent, and its representatives were authorized to visit psychiatric centres. The Office had set up a special protection bureau which focused on issues of importance to persons with disabilities. The Ombudsman's Office also played an important role in promoting the Convention through its efforts to mainstream the rights of persons with disabilities. In reply to an earlier question, he was pleased to assure the Committee that the provisions in immigration laws under which persons applying for residency who had dependents with disabilities had been required to meet more stringent standards than other applicants had been withdrawn.

26. **Mr. Rodríguez Gutiérrez** said that tourism was the country's main source of export earnings and that it was therefore of vital importance for all tourist sites and monuments to be made accessible to persons with disabilities and their personal assistants wherever possible. The Government had partnered with a wide variety of stakeholders to conduct research on means of improving accessibility to tourism venues for persons with disabilities and would be implementing its findings in the near future.

27. The Government recognized the importance of making information available to persons with visual impairments and would consider the ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled at a meeting to be held in May 2014.

28. Persons with disabilities participated fully in the country's political life on an equal basis with others. For example, 2 members of parliament with disabilities had been elected under the previous Administration, 11 presidential candidates with disabilities had stood for office at the last elections and around 10 local councillors with disabilities had been voted in for the 2011–2016 term. Both the major political parties in Costa Rica also had persons with disabilities on their policymaking teams, and disability had become a cross-cutting issue in government policy.

29. The Government regularly consulted with civil society when developing policies, and several disabled persons' organizations had participated in the reform of the National Council on Rehabilitation and Special Education. Priority had been given to increasing the participation of persons with disabilities from rural and remote communities, and the National Council had been granted additional funding with a view to strengthening its mandate and expanding its activities in those areas. The Government supported the annual disability conference held by disabled persons' organizations and had included representatives from those organizations on the National Council's Governing Board.

30. The Government had been working on a bill in partnership with the Japanese International Cooperation Agency to introduce community-based rehabilitation programmes for persons with disabilities. Helen Keller International, together with local development associations, had assumed responsibility for raising awareness of the importance of community-based rehabilitation measures in rural and remote areas, which were a priority focus of that initiative.

31. **Mr. Azofeifa Murillo** said that the Government would introduce the necessary legal measures to fully guarantee reasonable accommodation for persons with disabilities in the workplace. The Act on Equal Opportunities for Persons with Disabilities (Act No. 7600) of 1996 required employers to provide adequate on-the-job support for persons with disabilities, and the Government had established a series of measures to support the application of those provisions, including a tax incentive scheme. Unfortunately, there had been limited uptake of the scheme to date, and further awareness-raising activities were called for at the national level to increase employer participation. Two legislative measures had been passed with a view to promoting the employment of persons with disabilities: the Act for Inclusion and Labour Protection for Persons with Disabilities, and the National Disability Policy, which focused on establishing additional incentives and improved labour mediation mechanisms.

32. In respect of participation in cultural life, recreation, leisure and sport, the Government had established a series of measures to guarantee access for persons with disabilities to cultural venues and buildings, including dedicated seating areas where appropriate. As to accessibility in general, there was unfortunately a loophole in national legislation which had been exploited by organizations that wished to evade paying fines for failing to meet accessibility standards. The National Council was responsible for collecting such fines and reinvesting those revenues in initiatives to promote the rights of persons with disabilities.

33. The recent amendments to the Immigration Act were not discriminatory and were in line with the provisions of the Convention. The main objective of that law was to ensure that migrants entering the country could support themselves. The recently introduced requirement to demonstrate a certain level of income applied to any person with dependants and had been introduced in order to safeguard the rights of all dependants and their living standards.

34. As to the reports of persons with psychosocial or intellectual disabilities being committed involuntarily, those reports had to do with a ruling of the Constitutional Court, which had said that persons with disabilities who had been tried and convicted of crimes were to be held separately from the rest of the prison population and were to receive specialist care. The Government had also provided training to judges on how to handle cases involving persons with disabilities.

35. There were no restrictions on the participation of persons with disabilities in political and public life, and they enjoyed the same rights as the rest of the population. The Government had taken steps to make polling stations accessible and provided ballot papers in accessible formats. There were also plans to introduce new assistive technologies in future, which would serve to safeguard persons with disabilities' right to vote by secret ballot.

36. **Ms. Solano Murillo** said that, while numerous legislative efforts had been made to ensure that deaf persons received a mainstream education, more progress needed to be made. Costa Rican sign language had been included as an official language, but many people, including some teachers, still held an outdated view of disability, and there was a shortage of certified sign language interpreters. The Government had taken steps to tackle those issues and would be increasing its efforts to disseminate the Convention.

37. As to improving data-collection methods, the National Council would shortly be conducting a nationwide disability survey. It was hoped that the results of its research would enable the Government to improve the scope of its policies and would allow for a more detailed presentation of data at the next constructive dialogue with the Committee.

38. **Mr. Dengo** said that the State party attached great importance to the Committee's recommendations and would take all necessary steps to fully comply with the provisions of the Convention.

39. **Ms. Quan-Chang** said that she wished to thank the delegation for its enlightening replies and hoped that the State party would continue to involve civil society in its implementation of the Convention.

40. **The Chairperson** said that the Committee was grateful to the delegation for the open and constructive dialogue. The State party might wish to use its replies to the Committee's list of issues as the basis for its combined second and third periodic reports in accordance with the provisions of the treaty body strengthening process.

*The meeting rose at 12.50 p.m.*