



## Convention on the Rights of Persons with Disabilities

Distr.: General  
8 October 2013

Original: English

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### Committee on the Rights of Persons with Disabilities

#### Tenth session

#### Summary record of the 109th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 4 September 2013, at 3 p.m.

*Chairperson:* Ms. Cisternas Reyes

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*The meeting was called to order at 3.10 p.m.*

**Tribute to the memory of Eileen Girón, disability rights campaigner, El Salvador**

1. **Mr. Torres Correa** and **Ms. Quan-Chang** paid tribute to the memory of Eileen Girón.
2. *At the invitation of the Chairperson, the members of the Committee observed a minute of silence.*

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

*Initial report of El Salvador (CRPD/C/SLV/1; CRPD/C/SLV/Q/1 and Add.1)*

3. *At the invitation of the Chairperson, the delegation of El Salvador took places at the Committee table.*
4. **Ms. Velásquez de Avilés** (El Salvador) said that El Salvador was a party to several international treaties and conventions that dealt with the rights of persons with disabilities, and had ratified the Optional Protocol to the Convention in 2007. Her Government viewed respect for the rights of persons with disabilities as an ethical imperative for all democratic governments. The State party had extended a standing invitation to all United Nations special procedures mandate holders and would be visited in November 2013 by the Special Rapporteur on disability of the Commission for Social Development. In 2010, the Government had restructured the National Council for Persons with Disabilities. In addition to that body, the Secretariat for Social Integration played an important role in ensuring respect for and protecting the rights of persons with disabilities.
5. **Mr. García** (El Salvador), introducing his country's report (CRPD/C/SLV/1), said that the Five-Year Development Plan 2010–2014 had laid the foundations for structural and institutional change aimed at providing equal opportunities for persons with disabilities and other disadvantaged groups. The Nuestros Mayores Derechos presidential programme aimed to improve the living conditions of elderly persons, many of whom were persons with disabilities.
6. When the current Government had taken office in 2009, it had inherited an inefficient centralized State apparatus that had no human rights policy and was structured to benefit certain individual interests. The Government had implemented public policies focusing on social inclusion and the development of citizens' potential. The restructured National Council for Persons with Disabilities was made up of equal numbers of government representatives and representatives of disabled persons' organizations. A number of public policies had been formulated in consultation with persons with disabilities and included measures specifically for their benefit, such as the National Policy on Women, the National Policy for Inclusive Education, the University Policy for Inclusive Education, the National Policy for Consumer Protection and the Policy on Sexual and Reproductive Health.
7. Laws on discrimination against women and on violence against women prohibited discrimination on the ground of disability. The Ciudad Mujer programme provided specialized services for women, including in relation to gender-based violence, sexual and reproductive health, economic autonomy and human rights education, and most of the centres established under the programme were accessible to women with disabilities. Efforts were also being made to develop a training programme in Salvadoran sign language for the centres' staff members. The Child and Adolescent Protection Act prohibited discrimination against children on the ground of disability and established the obligation to eliminate all barriers restricting children's exercise of their rights.

8. Various accessibility measures had been taken through the Inclusive Cities project, such as building ramps, laying tactile paving on footpaths and installing pedestrian traffic lights with both light and sound signals. The Secretariat for Social Integration was working with government bodies to encourage them to make their buildings, websites and communications accessible. Salvadoran sign language was taught to young people through a television programme called *Frequency 12-25*.

9. The Ministry of Education had signed agreements with disabled persons' organizations and private universities on providing technical assistance and specialized materials for students with disabilities. It had also provided 22 pilot schools with teaching materials for students with intellectual disabilities and hearing impairments. A campaign was under way to ensure that all children with visual impairments had access to education.

10. With regard to health care, the new comprehensive care model included eight main lines of action that took account of disability. Habilitation and rehabilitation programmes were carried out by community health teams. The Government had begun implementing the Community-Based Rehabilitation Strategy, which focused on the rights, participation and social inclusion of persons with disabilities. In addition, the Salvadoran Institute for Comprehensive Rehabilitation was conducting a community-based rehabilitation pilot project. The Eugenia Dueñas Rehabilitation Centre for the Blind carried out habilitation and rehabilitation programmes for blind persons and persons with visual impairments.

11. The Ministry of Labour was working to promote employment opportunities for persons with disabilities and to support micro-entrepreneurs. Managers and labour inspectors had received training on disability rights. The Government had begun to adapt sport, recreational and cultural facilities to make them accessible to persons with disabilities.

12. The Government recognized that some legislation, such as the Criminal Code and the Civil Code, urgently required reform to bring it into line with the Convention. Other priority actions that needed to be taken included providing access to justice, raising awareness among the general public, creating a reliable register of persons with disabilities, standardizing the criteria used to classify disabilities, updating accessibility standards, expanding the Community-Based Rehabilitation Strategy, establishing a monitoring centre for disability issues and creating more work opportunities for persons with disabilities. A rights-based policy on comprehensive care for persons with disabilities would be adopted in 2013. Lastly, the Government had begun the process at the national level of withdrawing the country's reservation to the Convention.

13. **The Chairperson** welcomed the State party's intention to withdraw its reservation and its honest recognition of the challenges it faced.

14. **Mr. Torres Correa** (Country Rapporteur) said that the State party should conduct a thorough analysis of the reservation to the Convention and work towards its withdrawal. It should also reform its laws to create the conditions for full inclusion of persons with disabilities, and should conduct awareness-raising and informational campaigns on disability. Clarification of the functions of the National Council for Persons with Disabilities and the Secretariat for Social Integration was needed. In addition, the delegation should indicate what percentage of the State budget was allocated to programmes for persons with disabilities.

15. Disabilities were currently classified by three institutions with overlapping functions, using a medical, rather than a rights-based, approach. A more consistent system was called for, so that reliable data could be obtained on the exercise by persons with disabilities of their rights. Information and communication technology was accessible to persons with disabilities only in certain parts of the country, mainly in the capital, and it was difficult to see what had been done to make public transport accessible. The sanctions

imposed for violating the employment quotas for persons with disabilities were very limited, which meant that employers often preferred to pay the fines rather than respect the quotas.

16. He was concerned that the Government had not recognized Salvadoran sign language as an official language or provided the necessary support to sign-language interpreters. The Government should work to strengthen, and encourage participation by, disabled persons' organizations. It should promote inclusive education for persons with disabilities, including by supplying Braille textbooks and assistive technologies for students with visual and hearing impairments. Persons with disabilities were sometimes used by others to commit crimes. In the light of that phenomenon, he would welcome statistical data on persons with disabilities who were deprived of their liberty, along with information on the support and assistance available to them during legal proceedings. The State party should work in partnership with civil society organizations to promote and protect the rights of persons with disabilities.

#### *Articles 1–10*

17. **Mr. Ríos Espinosa** said that, while the State party's willingness to withdraw its reservation to the Convention was welcome, further measures were necessary. In particular, the State party should review its Constitution, particularly article 74 denying civil rights to persons with "*enajenación mental*" (mental disorders), and its legislation on equal opportunities for persons with disabilities, which did not include any reference to the inclusion of women with disabilities, the participation of children with disabilities or the need for reasonable accommodation. He wished to know what measures the Government had taken to promote awareness of the Convention among persons with disabilities, particularly those from indigenous communities and those living in rural areas.

18. **Ms. Degener** said that, according to information before the Committee, the Government had not held any meaningful consultations with disabled persons' organizations on developing and implementing a strategy or action plan on the rights of persons with disabilities. She asked how the Government planned to remedy that situation.

19. **Ms. Quan-Chang** said that she welcomed the intention of El Salvador to withdraw its reservation to the Convention. Inconsistencies in the definitions of disability in different laws and regulations were a cause for concern, particularly since the medical approach, rather than the rights-based approach, appeared to prevail in both legislation and policy on disability. She was concerned that the new Electoral Code established mental impairment as a barrier to standing for election and that reference continued to be made in legislation to "*enajenados mentales*" (mentally disturbed persons), a pejorative term that stigmatized persons with psychosocial and intellectual disabilities. Discrepancies between the State party's report and the shadow report produced by disabled persons' organizations indicated that there had not been adequate consultation with such organizations prior to submission of the initial report to the Committee. She would appreciate information on the criteria used to determine whether a person was disabled, whether they had been updated and whether they were in line with the Convention.

20. **Mr. Tatić** requested an update on plans to adopt a law prohibiting discrimination on the ground of disability and establishing denial of reasonable accommodation as an act of discrimination. He asked what recourse was available to persons with disabilities who experienced discrimination that prevented them from exercising their rights.

21. He wished to know whether any sanctions, such as fines or loss of licence, were applicable in cases where a design for a building was found to violate the accessibility standards, and whether action was being taken to provide access for persons with disabilities to cultural monuments, including historical buildings. He would like to have

more information on the plans to eliminate the architectural and urban barriers outlined in paragraph 64 of the report, particularly with regard to the corresponding monitoring mechanisms and sanctions. He requested details of the universal design training provided to architects and engineers, and asked whether similar training was offered to information technology engineers, in order to ensure that information and communication technology was accessible to all. Lastly, he enquired about the involvement of disabled persons' organizations in work on accessibility and any links between disabled persons' organizations and professional associations of urban planners, engineers and architects.

22. **Mr. Ben Lallahom** asked whether a national strategy for persons with disabilities, based on the Convention and the human rights model of disability, had been introduced. He wished to know how NGOs and civil society were involved in the lives and care of persons with disabilities.

23. **Ms. Peláez Narváez** said that she was concerned about the abuse, particularly sexual abuse and violence, perpetrated against women and girls with disabilities in family and institutional settings. Women and girls with disabilities who had been abused did not have adequate access to justice, and there was a lack of appropriate tools to help them communicate with the police. Women with disabilities had little access to the labour market or to sexual and reproductive health care, and women with intellectual and psychosocial impairments continued to be subjected to involuntary sterilization. The situation of indigenous persons with disabilities was also a matter of concern.

24. Referring to the recommendations to improve the situation of children with disabilities in El Salvador made by the Committee on the Rights of the Child in 2010, she asked how those recommendations were being implemented, highlighting the recommendations to introduce a register of children with disabilities and improve access to education. She requested more information on the body responsible for the protection of children with disabilities in the State party.

25. **Mr. Langvad** asked what steps the Government was taking to ensure that persons with disabilities in rural areas had access to clean water, sanitation and other essential facilities. He also wished to know how it supported independent disabled persons' organizations and enabled them to work with the authorities. He questioned the way in which the number of persons with disabilities was calculated. A broad definition of disability would expedite the removal of barriers. In that connection, the State party should consider information from the World Health Organization (WHO) indicating that 10 per cent of the population had a disability. Lastly, more awareness-raising activities should be conducted to inform the public of how persons with disabilities could contribute to society.

26. **The Chairperson**, speaking in her personal capacity, asked how persons with disabilities from indigenous communities and rural areas participated in decision-making and how the next census would record persons with disabilities. In the light of the recent conviction of a male nurse for the rape of a 14-year-old inpatient, she wished to know what action was being taken to secure the adoption of laws and public policies aimed at eradicating abuse in institutions. She would welcome clarification as to whether women with visual impairments were prohibited from adopting a child.

27. **Mr. Buntan** asked whether the State party intended to amend the part of the Constitution that discriminated against persons with disabilities, whether national disabled persons' organizations were involved in any official capacity in the drafting of legislation, whether there were any indicators to evaluate the benefits of a policy for persons with disabilities, and whether there were any plans to extend the various accessibility initiatives launched in the capital to other areas of El Salvador.

*The meeting was suspended at 4.30 p.m. and resumed at 5 p.m.*

28. **Mr. García** (El Salvador) said that his country was governed by the rule of law and recognized the separation of powers as underpinning the rule of law. Thus, while the Government acknowledged that legislation on persons with disabilities was outdated, particularly the definitions of disability and the provisions restricting the right of persons with disabilities to stand for election, progress in the field of legislative reform was necessarily slow.

29. **Ms. Valle de Cárcamo** (El Salvador) said that her delegation shared the Committee's concern regarding violence against women and girls with disabilities and that NGOs had been involved in efforts to combat violence and impunity. Legislation passed in 2010 established the right to a life without violence. It was implemented through policies on detecting and preventing violence, providing care and reparation for victims, and punishing perpetrators. In addition, the legislation penalized crimes such as femicide, which was viewed as an aggravated offence when perpetrated against a girl under 18, an elderly woman or a woman with a disability.

30. **Mr. García** (El Salvador) said that, since 2009, the Government had introduced policies aimed at including persons with disabilities in society, facilitating disabled access to services and establishing the necessary infrastructure, including transport. The Inclusive Cities project introduced technical planning standards on accessibility, and sanctions would be handed down to builders who violated them. There had been progress in the field of urban infrastructure, in particular improvements to pavements and the installation of traffic lights that would help visually impaired persons. Challenges nonetheless remained with regard to rural infrastructure and accessibility for persons with disabilities who lived in rural areas, who were disadvantaged compared to their urban counterparts.

31. Children with disabilities were guaranteed an education. In that connection, there were two pilot programmes for inclusive education: an inclusive schools programme and an inclusive classes programme. The pilot programmes were a first step in addressing an issue that had been overlooked for many years.

32. **Ms. Castillo** (El Salvador) said that, according to the most recent census, carried out in 2007, 4.1 per cent of the population lived with permanent limitations on their daily activities. The next census would take place in 2017. A number of institutions had introduced their own measures to gather statistics on persons with disabilities. For example, the National Registry of Natural Persons made a record of all persons with disabilities over 18 who requested an identity document, while specialist community health teams, when completing family registration forms, noted the presence of family members with disabilities and the type and cause of the disability. The measures outlined permitted the identification of persons with disabilities and their needs and provided data to inform policy. A pilot project was being developed with other countries to capture information on biological, psychological and social aspects of disability, so as to have a fuller picture of the lives of the population concerned. Technical support for the project would be provided by Ecuador and a meeting on the project had recently taken place.

33. **Mr. García** (El Salvador) said that the current Government had considerably increased the participation of disabled persons' organizations in decision-making by granting them equal representation with State agencies on the National Council for Persons with Disabilities. The Council was currently fine-tuning the national policy on persons with disabilities, and resources for its implementation were being made available. The policy was due to be rolled out at the end of the third quarter of 2013. In addition, the Office of the Human Rights Advocate had established a Standing Committee on Persons with Disabilities, which served as an important forum for dialogue and for increasing the visibility of persons with disabilities, as well as awareness of their issues.

34. **Ms. Velásquez de Avilés** (El Salvador) said that, thanks to the complementarity of State and civil society efforts, headway was being made in addressing the needs of persons with disabilities and other vulnerable sectors of the population and filling the gaps in areas such as education, health, employment and accessibility. All in El Salvador had been responsible by omission for the adverse situation of the past. The members of the delegation were not before the Committee to be judged for something they had not done. At the same time, the whole country was guilty of having lacked the solidarity and courage to place disability issues on the agendas of civil society and the Government in the way that the current Government had done. The needs of population sectors that had been marginalized or ignored by the State for many years were now beginning to be addressed and, although the level of violence was still terribly high, impunity was on the decline. Perpetrators of femicide, for example, both against women with disabilities and women without disabilities, had been prosecuted and convicted. The country was definitely taking steps in the right direction. All the required elements, namely a rights-based approach that promoted inclusion, data collection, a serious budget and, above all, the political will, were now coming together, and she trusted that El Salvador would report greater progress in its next periodic report.

*Articles 11–20*

35. **Mr. Ríos Espinosa** said that information on the adjustments made to institutions and to administrative, civil and criminal procedures to ensure that persons with disabilities had full access to justice would be welcome. The Committee had received worrying reports of deaf youths being mistaken for gang members because they used sign language and of a rape victim with a mental disability being unable to press charges because the courts had questioned her credibility. Impunity was unacceptable in any State governed by the rule of law, and those working in the justice system, including investigators, needed proper training on the needs of persons with disabilities. Access to interpreters and alternative forms of communication should be provided, and steps should be taken to ensure that persons with disabilities did not suffer more than others in places of detention.

36. **Mr. McCallum** said that he would like to know if persons with intellectual and psychosocial disabilities were able to give evidence in court, which was essential for guaranteeing the inherent dignity of persons with disabilities. The fact that sign language was not used in the investigative process raised concerns about the fairness of investigations. While prison overcrowding was a problem in El Salvador, proper medical attention must nevertheless be provided to persons with disabilities in prison. Under the Convention, no person could be detained simply on the ground of disability, and information on whether that occurred in mental or other institutions in the State party would be appreciated.

37. **Ms. Quan-Chang** asked if there was an independent mechanism for preventing the torture and ill-treatment of persons with disabilities, for example, in places of detention and psychiatric hospitals. There were now mechanisms that enabled blind persons to work as notaries; the country's provisions prohibiting them from doing so were discriminatory.

38. **Mr. Babu** said that the Committee appreciated the acknowledgement of past omissions and the accompanying sense of guilt expressed by the delegation. Representatives of civil society in El Salvador should take advantage of the sincerity shown by the Government to engage in a more constructive dialogue on ways to improve the situation of persons with disabilities in the country.

39. **Ms. Degener** said that the stigmatization and arbitrary detention of deaf youths by the police because the sign language they used was similar to that used by gangs needed to be addressed. Children with disabilities were more at risk of corporal, cruel and degrading punishment, and she wished to know what steps the Government had taken since 2010 to

implement the recommendations of the Committee on the Rights of the Child to prohibit corporal punishment in all settings. According to the State party's report, corporal punishment had been prohibited only in schools and in the context of detention, but not in the home or in care settings.

40. **Mr. Tatić** enquired about the legal remedies available and the penalties imposed if accessibility standards were not met. He asked whether information related to natural disasters, such as hurricane warnings, was issued in sign language or in easy to read versions or other formats to ensure that persons with disabilities were duly informed. He appreciated that El Salvador was a developing country and that in Salvadoran culture many persons lived at home until they married, but he wished to know if, beyond technical aids and advisory services, there were plans to provide financial or other aid to persons with disabilities to enable them to leave home and live independently.

41. **Mr. Langvad** said that he would like to know what steps were being taken to raise awareness among all actors in the legal system, with a view to ensuring that all persons with disabilities had access to justice and that offenders with disabilities were appropriately sanctioned. Judges and lawyers needed to receive training about the realities of disability to make sure that there would be reasonable accommodation and that the right decisions would be made. According to disabled persons' organizations, the legal capacity of persons with disabilities was still often restricted. Awareness-raising and training were therefore needed in that regard as well, so that progress could be made towards abolishing guardianship and introducing supported decision-making in its place. Those involved in the discussion of corporal punishment must be provided with accurate information on why persons with different disabilities behaved as they did, so that the issue could be tackled appropriately. There were reportedly two competing sign languages in El Salvador, and he would like to know what action the Government was taking to ensure, for the sake of inclusion, that there was only one. Persons with disabilities from the same country should be able to communicate with one another. Information on the numbers of persons with disabilities living in institutions and on the types of institution would be appreciated. He also wished to know what support services were available at the community level so that people were included in the community and did not have to live in institutions. Persons with disabilities had to be visible at the local level to make people aware of the diversity of humankind and to change perceptions about disability.

42. **Mr. Kim Hyung Shik** said the Committee was concerned that, under Salvadoran civil law, persons of unsound mind, children under 14 years of age and deaf persons who were unable to make themselves clearly understood were considered to be legally incapable and their acts therefore did not give rise to natural obligations. He asked the delegation to explain which authorities took the decisions about a person's lack of capacity, how they reached those decisions and whether the option of providing support with decision-making was considered. Few disaggregated statistics had been furnished on acts of violence against persons with disabilities and no information had been provided on the criminalization of offences against persons with disabilities, such as the abandonment of a child with a disability. Data on the exploitation and abuse of persons with disabilities and on violence against them, especially women and children, including in the home, would also be welcome.

43. **Mr. Torres Correa** said that, since El Salvador would be holding elections in 2014 and the national policy on persons with disabilities would not be rolled out until the third quarter of 2013, he would like to know what guarantees there were that the programmes and actions planned in the policy would be implemented by the new government.

*The meeting rose at 6 p.m.*