



## Convention on the Rights of Persons with Disabilities

### Committee on the Rights of Persons with Disabilities

### Concluding observations on the initial report of Paraguay, adopted by the Committee at its ninth session, 15–19 April 2013

#### I. Introduction

1. The Committee considered the initial report of Paraguay (CRPD/C/PRY/1) at its 95th and 96th meetings, held on 15 and 16 April 2013 respectively. At its 102nd meeting, held on 19 April 2013, the Committee adopted the following concluding observations.

2. The Committee welcomes the initial report of Paraguay, which was prepared in accordance with the guidelines for submission of reports to the Committee, and is grateful for the written replies (CRPD/C/PRY/Q/1/Add.1) to the list of issues prepared by the Committee (CRPD/C/PRY/Q/1).

3. The Committee is grateful for the dialogue between its members and the State party's delegation. It commends the State party for its delegation, which included representatives of Government ministries and the Director of the National Secretariat for the Human Rights of Persons with Disabilities (SENADIS).

#### II. Positive aspects

4. The Committee congratulates the State of Paraguay on its adoption of Act No. 4720 of 2012 establishing SENADIS, which replaces the National Institute for the Protection of Exceptional Persons, and whose main task is to formulate national policies on persons with disabilities, devise action to implement national programmes and present these to the President for approval.

5. The Committee takes note with satisfaction of the adoption of Act No. 4336 of 2011, making it compulsory to use sign language in information and news broadcasts in the audiovisual media.

6. The Committee is pleased with the efforts made in terms of physical accessibility, with the adoption of Act No. 4616 of 2012.

#### III. Principal areas of concern and recommendations

##### A. General principles and obligations (arts. 1–4)

7. The Committee is concerned at the State party's use of derogatory terminology and definitions of persons with disabilities in various pieces of legislation and data-gathering instruments, including in the initial report and the replies to the list of issues. The use of such terms is a reminder of the prevalence of the charity and medical models of disability.

**8. The Committee recommends that the State party modify the terminology it uses to refer to persons with disabilities and bring its legislation into line with the content of the Convention, in accordance with its obligations. It also recommends that the State party promote human rights-based plans and programmes on disability in line with the fundamental principles of the Convention.**

9. The Committee is concerned that the State party has not established mechanisms for consultation with disabled persons' organizations, when adopting legislation and policies on persons with disabilities or in decision-making forums such as the National Commission on the Rights of Persons with Disabilities (CONADIS).

**10. The Committee recommends that the State party establish a mechanism for ongoing consultation with disabled persons' organizations, in accordance with article 4, paragraph 3, of the Convention, taking into account the range of disabilities represented, in accordance with article 1 of the Convention, and including children with disabilities, women with disabilities and Paraguay's indigenous population.**

11. The Committee notes that one of the strategic objectives of the National Human Rights Plan concerns persons with disabilities. Yet the actions outlined are of a general nature and do not contain specific measures to promote the rights of persons with disabilities.

**12. The Committee urges the State party to include persons with disabilities as a cross-cutting component of the National Human Rights Plan and to ensure that its strategies and actions are directed towards guaranteeing the full enjoyment of Convention rights in conditions of equality and eliminating all forms of discrimination against persons with disabilities.**

## **B. Specific rights (arts. 5–30)**

### **Equality and non-discrimination (art. 5)**

13. The Committee acknowledges the measures taken by the State party to promote the human rights of persons with disabilities and prohibit discrimination against them; it is nevertheless concerned at the lack of any specific provision to prevent, eliminate and penalize discrimination against persons with disabilities, and that there is no provision that explicitly defines the denial of reasonable accommodation as a form of discrimination.

**14. The Committee urges the State party to take the necessary legislative and administrative measures to eliminate discrimination on grounds of disability and adopt legislation prohibiting discrimination; such measures should explicitly refer to the denial of reasonable accommodation as a form of discrimination on grounds of disability.**

15. The Committee takes note of the adoption of the Plan on Equality and Non-Discrimination in the Civil Service; it is nevertheless concerned that the Plan does not explicitly cover persons with disabilities and that efforts to ensure its implementation in respect of persons with disabilities are inadequate.

**16. The Committee recommends that the State party take steps to guarantee the material equality of persons with disabilities in the civil service and promote, alongside the Plan on Equality and Non-Discrimination, a broad policy of equality and non-discrimination in all areas, based on the tenets and principles of the Convention.**

### **Women with disabilities (art. 6)**

17. The Committee notes the adoption of the third National Plan for Equal Opportunities for Women and Men 2008–2017, which includes women with disabilities as a cross-cutting theme. The Committee is nevertheless concerned that the actions set forth in the Plan make no reference to structural factors that prevent women with disabilities from exercising their rights. The Committee is concerned at the lack of information on the risks of violence to women, including forced sterilization, sexual and economic exploitation, and abuse and trafficking in persons.

**18. The Committee recommends that the State party institute as a matter of urgency effective measures to identify, prevent and provide protection from the multiple discrimination suffered by women and girls with disabilities, in particular women and girls with intellectual and psychosocial disabilities and hearing impairments. The Committee also recommends the establishment of accessible care centres for women and girls who are victims of these forms of violence in urban and rural areas, in consultation with organizations representing women with disabilities.**

### **Children with disabilities (art. 7)**

19. The Committee notes with concern that the National Programme of Comprehensive Care for Children and Adolescents with Disabilities is limited solely to the prevention and early detection of disability characteristic of the medical model, and does not take account of the full range of rights recognized to children with disabilities. The Committee is also concerned that the resources for implementation of a public policy on inclusion of children with disabilities are inadequate. The Committee regrets the lack of information on children with disabilities who are at risk of ill-treatment and abuse, including indigenous children with disabilities.

**20. The Committee urges the State party to allocate sufficient resources as required to implement a broad policy on inclusion of children with disabilities in all areas of life, including family life and community life, by developing inclusive community-based rehabilitation programmes for children with disabilities as recommended by the Committee on the Rights of the Child in its concluding observations on the third periodic report of Paraguay (CRC/C/PRY/CO/3, para. 49). The Committee also asks the State party to investigate and document the situation of children with disabilities in rural areas and indigenous communities, with a view to providing protection from abuse and ill-treatment.**

### **Awareness-raising (art. 8)**

21. The Committee notes with concern that awareness-raising campaigns on persons with disabilities have been designed using the medical model and favour prevention activities over recognition of persons with disabilities as the holders of rights. It is also concerned at the fact that the State party has not run any campaigns to eliminate negative attitudes to persons with disabilities, notably in the world of work.

**22. The Committee urges the State party to encourage extensive awareness-raising campaigns to reinforce the positive image of persons with disabilities as holders of all the human rights recognized in the Convention. It particularly urges the State to fully inform persons with disabilities — and society at large — about their human rights, using various formats, media and modes of communication such as Braille and sign language and other accessible formats, and to encourage a culture of respect for those rights by means of information, communication and education.**

### **Accessibility (art. 9)**

23. The Committee notes the approval of the Act on Accessibility of the Physical Environment for Persons with Disabilities; it is, however, concerned at the complete absence of any standards for the accessibility of information and communication and of information and communication technologies (ICTs), the gaps in implementation, the narrow definition of accessibility and in particular the lack of mechanisms to monitor the adoption of accessibility standards. It also regrets the absence of specific action to ensure the accessibility of public facilities, and of guarantees of implementation in the private sector, and the complete lack of information or provisions on accessibility in the departments and municipalities of Paraguay.

**24. The Committee urges the State party to implement the Act on Accessibility of the Physical Environment by allocating financial resources, setting time frames for modification of infrastructure and buildings, and establishing oversight mechanisms and means of penalizing non-compliance, in consultation with disabled persons' organizations, which should be authorized to assist in monitoring implementation.**

25. The Committee recognizes the State party's efforts to train the staff of public transport systems. It regrets, however, the absence of a legal framework instituting a requirement of accessibility in public transport.

**26. The Committee urges the State party to adopt provisions and instruments regulating and implementing, in accordance with articles 1 and 9 of the Convention, the accessibility of public transport at the national level that covers infrastructure and conveyances, signage and map design in accessible and easy-to-understand formats.**

### **Situations of risk and humanitarian emergencies (art. 11)**

27. The Committee notes that the State party has finished formulating its national policy on risk protection and civil defence. However, it notes with concern the absence of objectives and specific strategies to include persons with disabilities, despite their vulnerability in emergency and risk situations.

**28. The Committee urges the State party to adopt the national risk-management policy as a matter of urgency, ensuring the involvement of disabled persons' organizations and taking due account of their input and recommendations.**

### **Equal recognition before the law (art. 12)**

29. The Committee is concerned at the State party's mechanism for declaring persons with disabilities legally incapable and regrets the lack of understanding in the State party concerning the scope of article 12 of the Convention. The Committee is also concerned at the lack of data and information on persons with disabilities who have been declared legally incapable since the declaration of incapacity is an impediment to respect for the legal capacity of persons with disabilities, and the full exercise of that capacity, in all areas of life, including, but not limited to, matters of property.

**30. The Committee urges the State party to repeal the legal provisions of the Civil Code governing the procedure for declaring legal incapacity on grounds of disability and to set up an independent review mechanism with the aim of fully restoring the rights of those who have been declared legally incapable. It also recommends that the State party set up safeguards for persons with disabilities and develop a model for support in the decision-making process that takes due account of the individual's autonomy, free will and preferences, and of their rights, including the right to free and informed consent to medical treatment, the right of access to justice, and the rights to vote, to marry and to choose their place of residence.**

### **Access to justice (art. 13)**

31. The Committee is concerned that the State party's criminal legislation provides for penalties termed "care measures", that may be applied to persons with disabilities without due process.

**32. The Committee recommends that the State party amend its criminal legislation in order to make penalties applicable to persons with psychosocial or intellectual disabilities subject to the same guarantees and conditions as those applicable to any other person who is the subject of criminal proceedings, making provision as necessary for reasonable accommodation and procedural adjustments.**

### **Liberty and security of the person (art. 14)**

33. The Committee regrets the lack of information on persons with disabilities who have been committed to institutions against their will, or on the procedures that make involuntary committal possible.

**34. The Committee urges the State party to have an independent human rights mechanism gather information on persons with disabilities in institutions, oversee and monitor the situation of persons with disabilities who have been placed in institutions and launch a procedure for their reintegration into society and the community.**

35. The Committee notes with concern that the State party is adopting measures on the deprivation of liberty on grounds of disability, such as committal of children, women and men with disabilities to homes or psychiatric hospitals without free and informed consent and for lengthy periods of time. Specifically, the Committee is concerned at the measures the State party is adopting to reinforce the model of deprivation of liberty on grounds of disability, as in the Albino Luis and Pequeño Cotelengo homes.

**36. The Committee urges the State party to revise its procedures on committal on grounds of disability in order to ensure that persons with disabilities who are subject to those procedures are able to fully exercise their legal capacity as provided in the Convention. It also urges the State party to institute a broad strategy, including a programme to provide support in decision-making, for the inclusion of homeless persons with disabilities in the community, particularly those with intellectual or psychosocial disabilities.**

### **Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)**

37. The Committee takes note with satisfaction of the creation of the national mechanism for prevention of torture and other cruel, inhuman or degrading treatment or punishment in the State party. It is nevertheless concerned at the scant progress made in

implementing the recommendations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in particular with regard to persons with psychosocial disabilities interned in Tacumbú prison.

**38. The Committee recommends that the mandate of the State party's national prevention mechanism include oversight of psychiatric hospitals and homes and the detention conditions of persons with psychosocial disabilities in such establishments, paying particular attention to Tacumbú prison. It also asks the State party to encourage the transfer of persons with psychosocial disabilities to social rehabilitation centres and their inclusion in the life of the community.**

### **Freedom from exploitation, violence and abuse (art. 16)**

39. The Committee regrets that offences of exploitation, violence and abuse against persons with disabilities are still not visible because judicial bodies do not keep systematic records of cases.

**40. The Committee urges the State party to institute a comprehensive strategy, incorporating the gender perspective and in consultation with disabled persons' organizations, to prevent and punish exploitation, violence and abuse against persons with disabilities, and social rehabilitation and reintegration programmes aiming at the full enjoyment and exercise of their human rights; it also urges judicial bodies to become involved in that strategy. The Committee asks the State party to include in its next periodic report information on complaints and decisions on behalf of persons with disabilities who are victims of offences of this kind.**

41. The Committee is concerned that the State party has not provided information on the number of persons with disabilities who are neglected, and whether they are victims of exploitation, human trafficking or abuse.

**42. The Committee recommends that the State party look closely at the situation of persons with disabilities who are neglected or the victims of trafficking and take the necessary steps to protect them, including alternative housing for those who have been neglected or are making a living by begging. It also urges the creation of reception centres where victims of trafficking in persons can obtain psychosocial care and legal assistance.**

43. The Committee is concerned at reports from various sources — as acknowledged by the authorities of the State party who took part in the interactive dialogue — that criminal gangs in Paraguay are exploiting persons with disabilities by making them beg.

**44. The Committee recommends that the State party:**

**(a) Set up a special investigation unit within the competent law-enforcement bodies to find out how these gangs operate;**

**(b) Take steps to protect the victims and place them in rehabilitation programmes, with the required support and reasonable accommodation, so that they can exercise their labour rights;**

**(c) Take criminal proceedings against those responsible for the exploitation and impose the appropriate penalties.**

### **Liberty of movement and nationality (art. 18)**

45. The Committee is concerned that children with disabilities are not registered in the State party and that there are as yet no concrete measures to encourage the registration of children with disabilities, particularly in rural areas.

**46. The Committee urges the State party to set up a programme on the civil registration of children with disabilities at birth, on an equal footing with other children, and decentralize registry procedures and ensure that they can be carried out simply, quickly and free of charge.**

### **Living independently and being included in the community (art. 19)**

47. The Committee regrets that the State party has still made no significant progress on a mental health policy that includes measures to deinstitutionalize persons with disabilities who are currently housed in psychiatric hospitals, institutions for children with disabilities and shelters for homeless persons, particularly children, with disabilities.

**48. The Committee asks the State party to implement a policy to gradually deinstitutionalize persons with disabilities, with clear time frames and benchmarks, and which includes the setting up of community services, including rights-based mental health services.**

49. The Committee is concerned at the lack of understanding of the importance of persons with disabilities being able to live an independent life as part of the community. It is also concerned at the lack of measures and policies aimed at including persons with disabilities in the community and the low level of involvement of local authorities and institutions in this question.

**50. The Committee urges the State party to encourage the creation of services aimed at including persons with disabilities in the community and, to that end, to obtain the involvement and commitment of the authorities at all levels, particularly the local and the community levels, and to conduct appropriate consultations and encourage the involvement of disabled persons' organizations in these services.**

### **Personal mobility (art. 20)**

51. The Committee is concerned at the lack of any comprehensive strategy for the provision of mobility equipment and aids for persons with disabilities, and including the development of low-cost universal-design appliances.

**52. The Committee urges the State party to ensure that persons with disabilities have ready access to the high-quality equipment and aids they need in order to exercise their right to mobility and freedom of movement autonomously and independently. The Committee also urges the State party to encourage research and development into low-cost mobility appliances.**

### **Freedom of expression and opinion, and access to information (art. 21)**

53. The Committee takes note with satisfaction of the adoption of Act No. 4336 of 2011, making it compulsory to use sign language in information and news broadcasts in the audiovisual media. It is nevertheless concerned that this effort is not sufficient to guarantee freedom of expression and opinion and access to information, in particular in public and private services and institutions for the general public.

**54. The Committee recommends that the State party adopt the Act giving official recognition to sign languages used by persons with disabilities and ensure that all public information is available in accessible forms and formats, in accordance with the Convention.**

### **Respect for home and the family (art. 23)**

55. The Committee is concerned at the State party's expansion of its schemes for homes for children with disabilities, undermining their right to live in a family.

**56. The Committee urges the State party to adopt measures to encourage foster families and to provide financial support to low-income families with children with disabilities to enable the children to live with their families and be active members of the community. The Committee also urges the State party to guarantee equality of treatment for children with disabilities in the Family Placement Programme for Children and Adolescents requiring Protection and Support, and to revise the draft rules on subsidies to foster families and residential care institutions and bring them into line with the provisions of article 23 of the Convention.**

### **Education (art. 24)**

57. The Committee is concerned at the low numbers of children with disabilities enrolled in school (less than 1 per cent) and at the fact that most of those schools are special schools, and at the persistent use of terminology drawn from the medical model of disability when assessing educational standards. It also regrets the lack of information on enrolment rates in urban and rural areas and on whether education is ethnically and linguistically relevant.

**58. The Committee recommends that the State party implement a strategy to give all children and adolescents with disabilities access to the national education system and that education should be inclusive at all levels and throughout the country and incorporate the gender perspective and be ethnically and linguistically relevant. The Committee urges the State party to modify educational terminology drawn from the medical model and to reorient segregated special education towards the inclusive model and encourage it to move in that direction.**

### **Health (art. 25)**

59. The Committee is concerned at the scant information on health services for persons with disabilities, and in particular on services at the community level, including HIV-related services. It is also concerned at poor accessibility in specialist and general medical services, including barriers preventing access to physical facilities and medical equipment and furnishings, and at discrimination in the provision of sexual health and reproductive services.

**60. The Committee asks the State party to take the necessary measures to ensure that all health services are fully accessible to persons with disabilities at all levels, including the community level, and that these measures incorporate the gender perspective.**

### **Habilitation and rehabilitation (art. 26)**

61. The Committee is concerned that habilitation and rehabilitation in the State party focus solely on health and do not encompass other areas such as education, work or access to housing.

**62. The Committee urges the State party to institute a broad rehabilitation strategy for persons with disabilities at the national level that is tied in with the establishment of the necessary community services and strengthens the services provided at local level so that they are able to meet individual needs.**

### **Work and employment (art. 27)**

63. The Committee takes note of the quota system for employing persons with disabilities in the public sector, but notes with concern that there are no policies to encourage employment in the private sector. It is also concerned at the fact that employment training programmes concentrate on manual and craft work and occupations and that there is no promotion of equal employment opportunities.

**64. The Committee recommends that the State party adopt without delay policies on the employment of persons with disabilities in both the public and the private sectors, including the adoption of affirmative action measures, and opportunities for persons with disabilities to choose own-account employment by means of training in areas of their**

## **choice and access to soft loans.**

65. The Committee is gravely concerned at the fact that there is no legislation to protect persons with disabilities from discrimination, including denial of reasonable accommodation, in the labour sector.

**66. The Committee urges the State party to encourage the adoption of legislation to prohibit and effectively penalize all forms of discrimination against persons with disabilities in the labour sector, and to establish mechanisms for redress where their labour rights are violated.**

## **Adequate standard of living and social protection (art. 28)**

67. The Committee notes the introduction of a disability voucher. It is nevertheless concerned at the fact that, though it is non-contributory, the amount of the voucher is not consistent with the right to an adequate standard of living for persons with disabilities. The Committee is also concerned at the inadequacy of measures to compensate persons with disabilities and their families, whose income is reduced because of their disability; it is also concerned at the lack of policies on access to housing and development.

**68. The Committee recommends that the State party adopt a public policy on development that includes gender-sensitive strategies specifically aimed at reducing poverty and providing access to development for persons with disabilities and their families, including guarantees of decent housing on an equal footing with others, and paying particular attention to persons living in rural areas.**

## **Participation in political and public life (art. 29)**

69. The Committee notes with concern the continued application in the State party of Act No. 834 on the Electoral Code, which places restrictions on deaf persons' right to vote. It also regrets the lack of information on the number of persons with disabilities who are not allowed to vote. It also regrets that disabled persons' organizations were not consulted on the adoption of a mechanism for secret voting and universal suffrage for persons with visual impairments, and that there are no measures to promote the right of persons with disabilities to stand as candidates for elected office.

**70. The Committee recommends that the State party repeal the provisions restricting the right of persons with disabilities of any kind to vote and that, in consultation with disabled persons' organizations, it adopt measures to guarantee the right of universal, secret suffrage.**

## **C. Specific obligations (arts. 31–33)**

### **Statistics and data collection (art. 31)**

71. The Committee notes that there is no disaggregated data on the situation of persons with disabilities in the State party. It takes note of the preliminary results of the latest population census in the State party; it is nevertheless concerned that there is no information on the methods used to collect data on persons with disabilities and in particular on the criteria used in developing the census instruments.

**72. The Committee recommends that the State party gather disaggregated data on persons with disabilities that is consistent with the human rights model, and that it consult disabled persons' organizations regarding the criteria used in gathering that data.**

73. The Committee notes the introduction of a disability certificate giving access to rights and disability benefits; it is nevertheless concerned at the fact that the certificate is issued on the basis of physical deficiencies alone, and not in accordance with the human rights model used in the Convention.

**74. The Committee recommends that the State party review and modify the assessment criteria used in issuing the disability certificate, in line with the principles of the Convention, and establish a simple, no-fee procedure for obtaining it.**

### **National implementation and monitoring (art. 33)**

75. The Committee notes the creation of the Secretariat for the Human Rights of Persons with Disabilities (SENADIS), whose mandate is to coordinate policy on the rights of persons with disabilities in consultation with the National Commission on the Rights of Persons with Disabilities (CONADIS). It is nevertheless concerned that SENADIS has been given the task of implementation and independent monitoring even though it does not comply with the Paris Principles.

**76. The Committee recommends that the State party set up an independent mechanism in compliance with the Paris Principles, with the necessary resources to monitor implementation of the Convention; that mechanism should be in permanent consultation with disabled persons' organizations at the national level.**

77. The Committee is concerned at the lack of information in the State party on progress made with implementation of articles 17 (protecting the integrity of the person), 20 (personal mobility), 22 (respect for privacy) and 23 (respect for home and family).

**78. The Committee asks the State party to include in its next periodic report exhaustive information on measures taken to guarantee those rights and to protect them and ensure their implementation.**

## **Technical cooperation**

79. The Committee recommends that the State party avail itself of technical cooperation from the member organizations of the Inter-Agency Support Group for the Convention for the purpose of obtaining guidance and assistance in the implementation of the Convention and these concluding observations.

### **Follow-up to concluding observations and dissemination**

80. The Committee asks the State party, within 12 months and in accordance with article 35, paragraph 2, of the Convention, to provide information on the measures taken to implement the Committee's recommendations as set forth in paragraphs 44 (a), 58 and 70 above.

81. The Committee asks the State party to act upon the recommendations of the Committee as set forth in these concluding observations. The Committee recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Congress, officials in the relevant ministries, the judiciary and members of relevant professions, such as education, medical and legal specialists, along with local authorities, the private sector and the media, using modern, accessible social communication strategies.

82. The Committee asks the State party to disseminate these concluding observations widely in accessible formats, particularly to NGOs, disabled persons' organizations, persons with disabilities themselves and members of their families.

83. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its next periodic reports.

### **Next report**

84. The Committee asks the State party to submit its combined second and third periodic reports by 3 October 2018.