



**Convention on the Rights
of Persons with Disabilities**

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Committee on the Rights of Persons with Disabilities

**Information received from Guatemala on follow-up to the
concluding observations on its initial report***

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* The present document is being issued without formal editing.



I. Introduction

1. On 31 August 2016, the Committee on the Rights of Persons with Disabilities issued its concluding observations and recommendations with regard to the initial report of Guatemala, stating in paragraph 78: “The Committee requests the State party to provide, within 12 months and in accordance with article 35 (2) of the Convention, information in writing on the measures taken to implement the Committee’s recommendations as set forth in paragraphs 12 and 54.” Accordingly, the National Council for Persons with Disabilities hereby submits information on the progress made in respect of the recommendations set forth in those paragraphs, in compliance with Government Order No. 78-2009, which provides: “The National Council for Persons with Disabilities is hereby designated the governmental body responsible for matters relating to compliance with and implementation of the Convention on the Rights of Persons with Disabilities and for submitting the reports called for in that Convention.”

II. Follow-up information (CRPD/C/GTM/CO/1)

2. The measures taken to act on the recommendations made in paragraphs 12 and 54 of the concluding observations are described below.

A. Follow-up information relating to the recommendations made in paragraph 12 of the concluding observations

3. The following information relates to the process of consultation and inter-institutional coordination intended to expedite the adoption of bill No. 5125.

4. The process of harmonizing national disability legislation with the Convention on the Rights of Persons with Disabilities began after the ratification of the Convention and the Optional Protocol through Congressional Decree No. 59-2008 and the completion of various analyses by Guatemalan organizations of persons with disabilities.

5. In 2012, the amendment to Decree No. 135-96 was initiated on the basis of work undertaken by civil society in coordination with the Congressional Health and Public Assistance Committee, which gave a high-level congressional commission of representatives of State bodies and civil society organizations a mandate to make proposals to align the Decree with the Convention. The joint work of civil society, the National Council for Persons with Disabilities and advisers from the Congressional Health Committee resulted in the drafting of bill No. 4907, which was endorsed in eight regional workshops that were organized by the Council and held throughout Guatemala. Bill No. 4907 was subsequently used as a basis for the preparation of bill No. 5125.

6. In 2013, the Council’s governing board organized a consultation on the amendment to Decree No. 135-96 and later consulted its member organizations and other organizations, thereby facilitating an in-depth analysis of civil society organizations’ varying positions on the amendment.

7. As a result, an interdisciplinary team was established, and in December 2015 the Guatemalan Commission for Citizen Oversight of Disability Initiatives and the Association for Legislative Development and Democracy presented a draft proposal on the content of bill No. 5125. This work led to the establishment in 2016 of a team of experts on disability, the human rights of persons with disabilities and legislative techniques and practices, which prepared the current version of the bill.

8. To secure the endorsement of organizations of persons with disabilities and State bodies, a road map was designed for a national consultation on the bill prepared by the Guatemalan Commission for Citizen Oversight of Disability Initiatives, the National Council for Persons with Disabilities and the National Network for Persons with Disabilities. The consultation process was supported by a team of advisers from the Congressional Committee on Disability Affairs and culminated in the systematic compilation of the results of experiences from every region in Guatemala.

9. On 23 May 2016, the bill was presented to the Chair of the Committee on Disability Affairs in the Chamber of the People of the Congress of the Republic. At that meeting, representatives of the National Council for Persons with Disabilities stressed that the institutional part of the bill did not reflect the outcome of the national consultation process. In the next step of the legislative process, the bill was submitted to the Legislation Directorate of the Congress on 2 August 2016 and was given the number 5125. The bill has now been approved on third reading. The adoption, article by article, of the final wording is pending. The bill has been before Congress for more than a year, and some progress has been made, but it has not yet become law.

10. In accordance with its mandate, the National Council for Persons with Disabilities decided to carry out a second national consultation in order to present the bill in the complete form in which it was being considered by Congress and to highlight the proposed structure of the Council as provided for in the bill. At the same time, five thematic working groups were set up for subject-matter experts to review each chapter of the bill. This new process resulted in a new proposal that incorporated all the contributions made during the second consultation and in the working groups. This proposal involves a new structure in which pride of place in the bill is given to fundamental rights. The section relating to institutions follows, and the amendments to the various ordinary laws appear last.

11. In 2017, a new expert committee, comprising representatives of civil society, government bodies and the legislature, was set up to work on the latest proposed amendments to the bill. The Members of Congress who had convened the expert committee included two items that were not agreed to by the committee: (1) a decrease of approximately 96 per cent in the budget of the National Council for Persons with Disabilities and (2) the elimination of the disability allowance. The Council's governing board sent a letter to Congress expressing its disapproval, since the proposed amendments included aspects that had not been agreed upon or addressed in the working groups. In June, July and August 2017, the governing board held consultations with member organizations of the Council and other organizations on the amendments to bill No. 5125 in order to raise awareness of these proposals on which there was no consensus. There was countrywide support for the consultations, which were held in all 22 departmental capitals. The recommendations made by persons with disabilities can be summarized as follows:

- The National Council for Persons with Disabilities should be strengthened, as initially proposed, and it should comprise representatives of the three branches of government and of civil society
- The presidential secretariat for disability affairs should not be established, because it would exist to support the work of the President and would have limited executive powers, as indicated in article 8 of the Act on the Executive Branch, and because it would not facilitate participation by civil society
- There should be a monthly allowance for persons with disabilities living in poverty or extreme poverty

12. The next step towards the adoption of the bill is to ensure its passage through the committees of Congress, a step that will allow advocacy work, a bill on which there is consensus and, ultimately, the participation of all people with disabilities in social, political and legal life.

13. The greatest challenge to the adoption of a framework law on disability in Guatemala is to make persons with disabilities more visible to the State as holders of rights who, for want of opportunities for personal, social and community development, face obstacles to active participation in society.

B. Follow-up information relating to the recommendations made in paragraph 54 of the concluding observations

14. A committee composed of representatives of the Presidential Commission for the Coordination of Human Rights Policy, the Office of the Human Rights Advocate, the Ministry of Health and Social Welfare, the Counsel General's Office, and the judicial

authorities was set up to prepare a bill on mental health care, which is currently in the drafting process. The Ministry of Health, as represented by the Federico Mora National Mental Health Hospital, is the institution with the strongest commitment to the adoption of this bill on an appropriate approach to mental health in Guatemala.

15. A community mental health commission, coordinated by the Mental Health Programme of the Ministry of Health, organizes community-based mental health care as a means of preventing the institutionalization of persons with mental disabilities.

16. The Social Welfare Secretariat has a transformation plan. With the support of the United States Agency for International Development and the United Nations Children's Fund (UNICEF), consultations are currently being carried out to design a stronger institution that offers adequate options for the care of children and adolescents with disabilities and that, by operating a social protection system, empowers families and prevents the institutionalization of children and adolescents with disabilities. There is also a proposal to strengthen the family-based care system by establishing a network of professional foster families that can take in children and adolescents with disabilities who have been separated from their families; in such cases, the State must prioritize the return of the children and adolescents to their families or other relatives. These proposals are currently being formulated by the Social Welfare Secretariat, which is receiving support from the United Nations.

17. The National Adoption Council is seeking to expedite the judicial process whereby judges rule on whether a child or adolescent with disabilities can be put up for adoption. Work is under way on a proposal for an inter-institutional agreement between the National Adoption Council and the National Council for Persons with Disabilities with a view to providing satisfactory information on disability in training workshops for families interested in adopting and thus to encouraging the adoption of children and adolescents with disabilities. There is also a proposal for a national campaign to combat prejudices surrounding the adoption of children and adolescents with disabilities.

18. One of the challenges to implementing the Convention and acting on the recommendations made in the concluding observations is to take local measures in all parts of the country with the effective support and commitment of the State.

Progress made with regard to the concluding observations and recommendations

19. Through the National Council for Persons with Disabilities, Guatemala reconvened an expert committee comprising representatives of the Ministry of Foreign Affairs, the Presidential Human Rights Commission, the Planning and Programming Secretariat of the Office of the President, the Presidential Secretariat for Women, the Congressional Committee on Disability Affairs and the National Council for Persons with Disabilities to follow up on the recommendations of the Committee on the Rights of Persons with Disabilities. The Plan of Action 2017–2021 was established to operationalize measures at an institutional and inter-institutional level and, with the technical support of the National Council for Persons with Disabilities, implement the recommendations addressed to Guatemala. The progress made and actions taken to date are described below.

National Secretariat of Science and Technology

20. On 1 December 2017, the National Secretariat of Science and Technology concluded an inter-institutional cooperation agreement with the National Council for Persons with Disabilities with a view to making it possible to involve persons with disabilities in its work, including by developing scientific, technological and innovation projects aimed at supporting and promoting the comprehensive development of persons with disabilities. Accessibility was a central consideration in the preparation of the Secretariat's annual operational plan for 2018. The Secretariat building will have an entrance for persons with disabilities indicated by the international symbol of access.

21. The Secretariat's reception will have a special area for assisting persons with disabilities that is accessible to wheelchair users and persons of small stature.

22. A bell will be placed at the entrance. It will be at the appropriate height for wheelchair users and persons of small stature.
23. There will be an accessible bathroom for men and women on the ground floor of the building.
24. Information relating to disabilities is now collected in attendance lists for institutional activities.
25. The application form for the National Registry of Researchers now contains a section on disability.
26. Secretariat staff will personally and efficiently attend to persons with disabilities on the ground floor.
27. Mr. Henry Mejía Royet, Director General of the Federation of Deaf Persons of Colombia, which set up the web page Centro de Relevo Colombia (Relay Service Centre Colombia), has been advising the Secretariat on the feasibility of implementing a similar service in Guatemala.
28. The Secretariat's website is accessible to and can be consulted by persons with disabilities.

Ministry of Education

29. The Strategic Plan 2016–2020 addresses the topic of disability in its key thematic section on quality, equality and inclusion, which envisages measures to strengthen inclusive schools with a view to improving the quality of education for persons with disabilities who have special educational needs.
30. The total budget allocated to special educational services in 2017 was 39,345,516 quetzales.
31. The Ministry of Education has an administrative, technical and teaching staff of 308 persons working on special education services nationwide.
32. With regard to architectural adjustments to improve accessibility and the renovation of the physical facilities and equipment of schools, work has been undertaken to incorporate and update accessibility requirements. There are currently 85 accessible public schools.
33. The Ministry has made commitments through various agreements and letters of understanding to incorporate disability into the different aspects of its work; one of these commitments resulted in the establishment of the Educational Resource Centre for Persons with Visual Impairments. Notable organizations with which the Ministry has signed agreements include Fundación ONCE para América Latina, the Spanish Agency for International Development Cooperation, the Association for Technical Training in the Education of Persons with Disabilities, the International Council for Education of People with Visual Impairment, MAPOE and the German Agency for International Cooperation.

Public Prosecution Service

34. Specialized assistance for persons with disabilities is provided for in chapter III of the Public Prosecution Service's strategic plan for 2015–2019, which sets out details regarding the provision of assistance to vulnerable groups, including persons with disabilities. Moreover, section 5 of the Protocol for Comprehensive Services for Crime Victims sets forth the principles governing the provision of assistance to members of vulnerable groups. Those principles include respect for dignity, individual autonomy, non-discrimination, equal participation, respect for difference and diversity and accessibility.
35. The Public Prosecution Service has concluded an inter-institutional cooperation agreement with the National Council for Persons with Disabilities to help the Service to ensure accessibility in all areas and thus to guarantee the right of access to justice.

Presidential Secretariat for Women

36. A strategic agenda has been drawn up to foster and promote the inclusion of women and girls with disabilities from across the four peoples of Guatemala in institutional policies, plans and projects, in accordance with the National Disability Policy, the National Policy for the Comprehensive Advancement of Women, the Equal Opportunities Plan 2008–2023, lines of action 5 and 16 of the Plan of Action of the National Council for Persons with Disabilities, article 6 of the Convention on the Rights of Persons with Disabilities, general comment No. 3 (2016) on women and girls with disabilities, paragraphs 19 and 21 of the Committee’s concluding observations and its recommendations for Guatemala in paragraphs 20 and 22.

Ministry of Finance

37. The Ministry has recruited 11 persons with disabilities.

38. The Department of Training in Human Resources of the Directorate of Human Resources is implementing a basic sign language training programme and considering offering intermediate- and advanced-level courses.

39. To foster institutional development, the Ministry is planning to have its staff participate in a programme on the rights of special groups offered by the Office of the Human Rights Advocate.

40. There is a special assistance centre on the ground floor of the Ministry of Finance building.

Ministry of Health and Social Welfare

41. The Disability Programme, which was established pursuant to ministerial agreement No. SP-M-239-2004, provides for comprehensive promotion, prevention, detection, assistance and rehabilitation activities with a strong humanitarian focus.

42. A visual health commission was established pursuant to Ministerial Agreement No. 537-2011.

43. Work is under way on a legal document for the hearing health network.

44. The Ministry’s planning programme incorporates lines of action 23 and 24 of the Plan of Action, which address the observations and recommendations made by the Committee with regard to access to health for persons with disabilities.

Peace Secretariat

45. As part of its planning activities for 2018, the Secretariat included a component on disability in its Policy Agenda for Peace 2017–2026.

46. The Secretariat has an internal committee that follows up on matters relating to disability. The committee was established pursuant to a cooperation agreement concluded with the National Council for Persons with Disabilities on 19 May 2017.

47. Information about the Secretariat’s programmes and services is made available to persons with disabilities. On the instructions of the head office, the Secretariat offers virtual and in-person diploma courses on the culture of peace and has held consultations on the Policy Agenda for Peace.

Ministry of Foreign Affairs

48. On 28 January 2017, in accordance with line of action 30 – “international cooperation” – of the Plan of Action 2017–2021, and at the request of the National Council for Persons with Disabilities, the Ministry’s Directorate of Human Rights held an information meeting with diplomatic services accredited in Guatemala to raise awareness of the topic of disability and its connection with international cooperation.

49. The Ministry coordinated with the Permanent Mission of Guatemala to the United Nations in New York to involve the National Council for Persons with Disabilities in the

tenth session of the Conference of States Parties to the Convention on the Rights of Persons with Disabilities. The Council took advantage of that opportunity to present the Plan of Action 2017–2021 to the delegations of other countries at a side event.

Ministry of Energy and Mining

50. Refurbishments have enhanced accessibility; for example, ramps have been built so that wheelchair users can gain access to the Ministry's facilities.

Judicial authorities

51. The judicial authorities have concluded a framework agreement with the National Council for Persons with Disabilities that provides for the establishment of a technical committee to monitor the issue of access to justice for persons with disabilities. This committee is currently operational and is led by Judge María Eugenia Morales Aceña and senior judicial officials. Representatives of the National Council for Persons with Disabilities also participate in the committee's work as advisers and coordinators. The committee will study the issue of access to justice from all angles and will look into the issue of legal capacity.

Presidential Commission for the Coordination of Human Rights Policy

52. In accordance with the Plan of Action 2017–2021, the Commission's annual operational plan for 2018 provided for the strengthening of institutional mechanisms for the implementation of interim measures. The steps provided for are listed in the plan subsection on coordination of follow up to the recommendations of the United Nations system and compliance with commitments made to the inter-American human rights system.

National Registry Office

53. The National Registry Office's planning programme for 2017 and the preliminary draft of its planning programme for 2018 prioritize the strengthening of the registration system and have as their operational objective the coordination of home-based services for persons who require special attention – namely, older persons, persons with disabilities, persons with illnesses and any other persons who have a justifiable need for services to be provided to them at their home. Another operational objective is to further a culture of registration in which equality in terms of gender and disability and between peoples and language communities is promoted in a bid to prevent underregistration.

Planning and Programming Secretariat of the Office of the President

54. Within its remit, the Planning and Programming Secretariat of the Office of the President included in its general policy guidelines for the period 2018–2022, which steer the 2018 planning process for all public institutions, a specific guideline advising all institutions to include in their annual operating plans measures that contribute to the implementation of the Plan of Action 2017–2021 proposed by the National Council for Persons with Disabilities. The guideline states:

With regard to the provision of assistance to and the restoration of the human rights of persons with disabilities, it will be necessary to incorporate the measures set out in the Plan of Action 2017–2021 of the National Council for Persons with Disabilities, which was prepared on the basis of recommendations made by the United Nations committee of experts following its review of the country's implementation of the Convention on the Rights of Persons with Disabilities, and the equity-based measures set out in the Assistance to Persons with Disabilities Act (Decree No. 135-96).

Public Criminal Defence Institute

55. The Public Criminal Defence Institute takes the Brasília Regulations Regarding Access to Justice for Vulnerable People and the Universal Declaration of Human Rights into consideration in its work in order to ensure that the conditions are in place for effective access to justice for all persons with disabilities. Such access is taken into account in an

analysis of the Institute's mandate and policies that features in its institutional strategic plan for the period 2018–2025.

Counsel General's Office

56. The Department for the Protection of the Rights of Older Persons and Persons with Disabilities of the Counsel General's Office engages in a number of activities.

57. It receives and processes complaints relating to domestic violence and economic abuse of older persons and persons with disabilities and requests measures to protect the victims.

58. It organizes reconciliation meetings in cases of domestic violence involving older persons and persons with disabilities.

59. It disseminates information compiled by the Counsel General's Office to encourage competent institutions to raise public awareness of the rights of women, older persons and persons with disabilities and to take actions to protect those groups.
