



## Convention on the Rights of Persons with Disabilities

Distr.: General  
16 May 2012  
English  
Original: Spanish

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### Committee on the Rights of Persons with Disabilities

#### Seventh session

Geneva, 16–20 April 2012

### Implementation of the Convention on the Rights of Persons with Disabilities

#### List of issues to be taken up in connection with the consideration of the initial report of Argentina (CRPD/C/ARG/1) concerning articles 1 to 33 of the Convention

#### Argentina

##### A. Purpose and general obligations (arts. 1 and 4)

1. Please explain how domestic legislation distinguishes between persons with “mental disabilities” (psychosocial disabilities) and those with “intellectual disabilities”, how information on such persons is compiled, and what benefits they are entitled to under Act No. 22431, which deals with the comprehensive protection scheme for persons with disabilities. Please also indicate how many of the persons identified as having a disability in the 2010 census hold a “disability certificate”. Please disaggregate these data by sex.
2. Given that Argentina has a federal system of government, please indicate whether or not the legal frameworks in place in all of the provinces are in keeping with the Convention. Please specify whether or not Act No. 26378 is a federal law or a general law that is applicable in all the provinces. Also please indicate whether or not the State party has more than one law on disability and, if so, whether or not they are consistent with one another and whether or not their provisions are in keeping with the Convention (CRPD/C/ARG/1, para. 28 (a)).
3. Please explain how the concepts of “reasonable accommodation”, “communication” and “universal design” have been incorporated into Argentine law (*ibid.*, para. 19). Please describe the legislation in question. Also please explain how the concept of “reasonable accommodation” is applied in education and employment.

## **B. Specific rights**

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

4. Given that there are a number of different anti-discrimination regulations, please indicate which national regulations have been used for the specific purpose of incorporating the concept of “discrimination on grounds of disability” into general legislation, with particular reference to Act No. 24013 on employment, Act No. 23592 on discriminatory acts, Act No. 20744 on employment contracts, Act No. 26206 on education, Act No. 24901 on the system of basic services and Act No. 26657 on mental health. Please specify if “denial of reasonable accommodation” is defined as a form of discrimination. Please indicate what percentage of reported cases of discrimination result in the imposition of penalties for the commission of acts of discrimination against persons with disabilities (*ibid.*, para. 33).

### **Awareness-raising (art. 5)**

5. Please provide information on any studies that have been done on the subject of how the Argentine population views people with disabilities and on the need to raise people’s awareness by means of public awareness-raising campaigns such as the one that is now being developed by the Media Secretariat in order to promote the rights of persons with disabilities (*ibid.*, para. 88).

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

6. Please indicate what reports have been issued by the Advisory and Comptroller Committee to set up pursuant to Decree No. 914/97, which establishes the implementing regulations for Act No. 24314, in order to monitor efforts to improve accessibility. Please also indicate what measures have been introduced to rectify failures to comply with that decree. Kindly indicate how organizations of persons with disabilities participate in the Committee.

7. Please indicate whether or not private institutions are required to make services accessible to persons with disabilities when they offer services to the general public and, if so, what actual steps are taken to ensure that this obligation is met.

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

8. Please specify what measures Argentina has taken to bring domestic legislation relating to legal capacity into line with the Convention and how civil society has been involved in the process (particularly with respect to titles I, X and XIII of the Civil Code and all regulations that place restrictions on legal capacity under the guardianship system). Please describe current legal practice in this regard and indicate the types of cases in which guardianship and wardship arrangements are the norm or in which supported decision-making procedures are used.

9. Please explain what provisions in the bill to reform, update and unify the civil and commercial codes would safeguard the legal capacity of persons with disabilities and ensure their equal recognition before the law, specifically in the case of those with intellectual or psychosocial disabilities and those who are both deaf and blind. Please also explain what measures have been or are due to be introduced in that bill to replace the concept of “substitute decision-making” (guardianship or wardship) with “supported decision-making in the exercise of legal capacity”, in accordance with article 12 of the Convention.

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

10. With reference to the concluding observations of the Committee on the Elimination of Discrimination against Women concerning the sixth periodic report of Argentina, please indicate what measures have been taken to promote access to justice for women with disabilities (CEDAW/C/ARG/CO/6, para. 16).

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

11. Please explain what criteria are used when deciding whether to commit a person with an intellectual or psychosocial disability to a specialized institution; please also describe the procedure for challenging a decision to send a person to such an institution. Please furnish statistics on the number of people who have been confined or deprived of their liberty because they have an intellectual or psychosocial disability.

12. Please indicate how the State party guarantees recognition of the legal personality of persons with disabilities in cases of involuntary confinement or legal interdiction and what regulations govern such cases.

**Freedom from torture (art. 15)**

13. Please furnish information on any specific legislation that protects persons with disabilities from undergoing experiments or medical treatment without their free and informed consent and any measures designed to avoid substitute decision-making with respect to experiments or medical treatment. Please also furnish information on the regulations that govern the use of equipment for the immobilization or the physical or pharmacological restraint of persons in psychiatric care as well as the forcible treatment of such persons.

**Freedom from violence and abuse (art. 16)**

14. Please indicate what policies are being implemented to promote, defend and restore the rights of victims of sex crimes when those victims are persons with disabilities, particularly in the case of women and children with disabilities. Please specify which targeted measures for boys and girls with disabilities have been introduced in the Special Unit to Promote the Eradication of Sexual Exploitation of Children (UEESI).

15. Please indicate what targeted measures for women with disabilities are provided for in Act No. 26485 on comprehensive protection and the prevention, punishment and elimination of violence against women (*ibid.*, para. 218 (b)).

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

16. Please indicate the status of the implementing regulations for article 39 (d) of Act No. 24901, which deals with the system of basic services for the comprehensive assistance and rehabilitation of persons with disabilities, and explain what measures are included in the draft decree in order to guarantee the right to choose home assistance and to have these services provided outside the home as well (*ibid.*, para. 246). Also please indicate what role organizations of persons with disabilities have played in these processes.

17. Please provide detailed information on the application of Cheques Act No. 24452 and the Service Programme in Support of Independent Living (SAVA) for persons with disabilities. Please indicate in what way this law and SAVA are helping to promote independent living for persons with disabilities. Also please indicate what types of services SAVA offers to persons with disabilities and provide information on the budget allocation for the implementation of such services (*ibid.*, paras. 248 and 250).

18. Please explain how the State party ensures that Basic Services for Persons with Disabilities Act (Act No. 26480) is applied in rural areas (*ibid.*, para. 246).

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

19. With regard to the bill on the recognition of sign language as a language, please indicate whether it is currently under consideration by parliament and why it has not been adopted. Please specify what steps have been taken by the State party to ensure access to Argentine sign language interpreters, particularly in official proceedings. Please indicate what provision has been made by the Government of Argentina to include subtitles in its television broadcasts.

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

20. Please indicate what safeguards are in place to protect the right of fathers and mothers with disabilities to exercise parental authority and to not be deprived of this right on the basis of disability. Please also indicate the measures taken to guarantee the right of children with disabilities to be with their families.

21. Please indicate what steps the State party has taken to safeguard the right of persons with disabilities to maintain their fertility. In particular, please indicate what measures have been taken to do away with forced sterilizations and abortions of women with disabilities.

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

22. Please indicate what criteria are used in determining whether students should attend a regular or a special school. Please provide data, disaggregated by sex and level of education, on students with disabilities who are enrolled in these two types of schools and show how those figures compare with those for students without any disability.

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

23. Please indicate what measures have been taken to ensure that sexual and reproductive health services are accessible to persons with disabilities. Please provide information on the net expenditure on sex education and reproductive health programmes targeting this population group.

24. Please indicate when the independent review body provided for under the National Mental Health Act will begin to operate and when the issuance of implementing regulations for that law is expected. Describe the make-up of this body and how its work at the regional level is to be carried out. Please include information on the budget allocation for this purpose.

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

25. Please provide information on the level of compliance with the legal quota of 4 per cent for hirings of employees with disabilities, disaggregated by sex, at the State and provincial levels (*ibid.*, para. 494). Please explain what steps have been taken to overcome cultural barriers and prejudices that interfere with the ability of persons with disabilities to gain access to the labour market.

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

26. Please provide detailed information on the specific measures taken to provide social protection to persons with disabilities, including boys and girls, under the Families Plan (*ibid.*, para. 560).

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

27. Please indicate what measures have been taken to remove the restriction on the right to vote of persons deprived of their legal capacity under article 3 (a) of the Electoral Code. Please also indicate what measures have been taken to ensure that persons with disabilities who are institutionalized can vote (ibid. paras. 614–616).

**C. Women and children with disabilities (arts. 6 and 7)****Women with disabilities (art. 6)**

28. Please provide further information on the Gender and Disability Programme being implemented through the National Women's Council and the National Advisory Commission on the Integration of Persons with Disabilities (CONADIS). Please also provide information which will permit the impact of the programme (budget, measures, specific actions, etc.) to be measured (ibid., para. 64).

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

29. Please indicate what measures have been adopted to implement Act No. 26061, which deals with the comprehensive protection of the rights of children and adolescents, in the case of children with disabilities. Please specify what support has been provided to guarantee access to justice and ensure the participation of children and adolescents with disabilities on an equal basis with others.

**D. Specific obligations****National implementation and monitoring (art. 33)**

30. Please describe the make-up of CONADIS and how its budget allocation has changed over time. Please provide information on consultations and cooperation with organizations of persons with disabilities in accordance with article 4, paragraph 3, of the Convention.

31. Please indicate whether the National Disability Observatory serves as a mechanism for monitoring the implementation and observance of the Convention and its Optional Protocol under the terms set out in article 33, paragraph 2, of the Convention and whether it meets the standards of independence set forth in the Paris Principles (ibid., para. 718).