

# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

Fifth session

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### 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 Spain (CRPD/C/ESP/1), concerning articles 1 to 33 of the Convention on the Rights of Persons with Disabilities

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

1. Please provide updated information on the steps being taken to revise existing legislation in order to comply with the Convention, particularly with regard to the definition of persons with disabilities under Spanish law and, accordingly, who is entitled to the benefits specific to persons with disabilities granted by Spanish legislation.
2. Please provide information on the work of the Permanent Specialized Office and its arbitration procedure, including information relating to the remedies/redress offered, the enforcement of its decisions and its relation with the judicial system.
3. Act 51/2003 provides protection against discrimination for persons with a degree of disability above 33 per cent. Please specify how persons with disabilities who do not fall under the criteria established under Act 51/2003 are protected from discrimination. Please provide information on the sanctions applied in cases of discrimination.
4. Please provide information on the new Organic Act 2/2010 of 3 March 2010 on sexual and reproductive health and the voluntary termination of pregnancy, in particular the longer time limits allowed for terminating pregnancies when the foetus has a disability. Does the Government of Spain consider this to be in line with article 4, paragraph 1 (d), of the Convention?

##### B. Specific rights (arts. 5 and 8-30)

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

5. Please provide details on whether the present requirement of a disability certificate to bring a discrimination claim before a judicial body will be abolished.

**Accessibility (art. 9)**

6. Please provide information on the implementation of the findings and recommendations included in the 2006 study on access to the buildings of the various ministries, referred to in paragraph 46 of the State party report.

**Right to life (art. 10)**

7. Please explain whether guardians or caregivers of persons with disabilities can take decisions regarding the termination or withdrawal of medical treatment, nutrition or any other life support.

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

8. Please provide information on any protocols for guaranteeing the security and protection of persons with disabilities in emergency situations.

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

9. Please provide data on how many persons with disabilities have been put under guardianship to enable them to exercise legal capacity and on the number of rulings modifying the capacity to act, if any.

10. Please explain how it is ensured that guardianship is exercised to the benefit of the ward, in view of the absence of explicit safeguards in current legislation against undue influence or conflict of interest.

11. Please provide information on the measures planned or taken to replace substitute decision-making (guardianship) with supported decision-making in the exercise of legal capacity, in accordance with article 12 of the Convention.

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

12. Please provide information on measures Spain has taken in order to provide equal access to justice for persons with disabilities.

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

13. Please indicate how article 763 of the Civil Procedure Code (Act No. 1 of 2000), which allows involuntary confinement on the grounds of mental illness, is being implemented and in what types of mental illnesses it applies. Please explain the criteria and the process for placing a person with disabilities, in particular intellectual, mental or psychosocial disabilities, into forced confinement and how placement decisions can be challenged.

14. Please provide information on the review of Spanish legislation concerning hospitalization and treatment of persons with mental health problems.

15. Please provide information on the general directives and norms ensuring that persons with disabilities who are deprived of their liberty following a judicial process are treated in compliance with international human rights law on an equal basis with others and are provided with reasonable accommodation if necessary.

**Protecting the integrity of the person (art. 17)**

16. Please indicate the criteria for allowing the sterilization of persons with disabilities whose legal capacity is not recognized without their informed consent on the basis of article 156 of the Penal Code, in particular on the evaluation that it is in “the interest of the person with a disability” to proceed to such an action.

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

17. Please provide data on how many persons with disabilities live in institutions and how many of them are involuntarily confined. Please explain how persons with disabilities are reintegrated from institutions back into community life.

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

18. According to article 7, paragraph 3, of Act 27/2007, “learning Spanish sign languages may also be included in the curriculum of these centres for all students as an optional subject, facilitating the social inclusion of deaf children, the hard of hearing and deaf-blind children who use Spanish sign languages and promoting equality values and respect for cultural and linguistic diversity”. Please explain the plans of the State party for the integration of Spanish sign language as an optional subject in regular schools. Please provide information about regional variations in sign-language teaching in the educational system.

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

19. Please provide information on how disability can affect parents’ guardianship or custody of their children.

**Education (art. 24)**

20. Please provide data on the average expenditure per student with individual and accommodated educational needs, in special education and in the regular education system, over the past two years. Please provide data on how many students with disabilities attend regular schools and how many attend special schools.

21. Please provide information on whether children with disabilities and/or parents of children with disabilities can freely choose inclusive education options that provide reasonable accommodation.

22. Please clarify whether diplomas and qualifications that are awarded through special education programmes are equal to those awarded through regular education, as entry qualifications for higher education. Please explain how the State ensures that special schools are equal to regular schools in all aspects. Do teachers in regular schools receive systematic training on disability issues?

**Health (art. 25)**

23. Please provide information on how many health facilities are accessible, specifically whether these health facilities provide for free sign-language interpretation, Braille and other accessible modes of communication. Please explain how the preventive rehabilitation measures outlined in paragraph 140 of the State party report relate to the protection of the human rights of persons with disabilities.

24. Please provide information on the legal measures available to prevent discrimination against persons with disabilities in the area of health and insurance schemes.

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

25. Please provide information on what measures have been adopted to increase habilitation and rehabilitation benefits with respect to education, employment, health and social security and to provide greater assistance for persons with disabilities in rural areas.

26. Please provide information on community-based rehabilitation in Spain.

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

27. Please provide data on the level and type of employment and average income of men and women with disabilities in open employment in comparison with other workers over the past three years.

28. Please provide information on the unemployment rate of men and women with disabilities. Please also provide data on the numbers of persons with disabilities working in sheltered employment and labour enclaves as compared to the open labour market.

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

29. Please provide information on the criteria and procedure for the withdrawal of the active and passive right to vote from people denied the right to vote and on what grounds.

30. Please indicate what measures are in place to maximize the opportunities for persons with disabilities to participate in all aspects of political life. Please provide data on the number of persons with disabilities holding public office and the proportion of them in senior positions.

**International cooperation (art. 32)**

31. Please provide information concerning whether a disability perspective has been incorporated in the national policies and programmes under the Millennium Development Goals.

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

32. Please report on how the national monitoring mechanisms required under article 33, paragraph 2, of the Convention, especially the National Disability Council, are mainstreamed in the national human rights mechanism of Spain. Please explain whether the Committee of Representatives of Persons with Disabilities (CERMI) complies with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

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

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

33. Please provide information on the implementation of the Plan of Action for Women with Disabilities, detailing the measures taken and policies adopted, as well as their results so far.

34. Please provide information on the implementation of Organic Act No. 3/2007 on effective equality between men and women and its contribution to the improvement of the situation of women with disabilities in the areas of labour, social security and reconciliation of working and family life.

35. Please provide data concerning violence against women with disabilities. Please explain whether there is systematic and regular collection and analysis of data on all forms of violence against women with disabilities. Please provide information on the measures taken to assist women with disabilities who are or have been subjected to violence.

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

36. Please explain how gaps (for example lack of parenting skills, scant resources of social networks, lack of institutional support, among others) are identified in the effective protection of children with disabilities. Please provide further details on the reference guide

for children set out in paragraph 86 of the State party report. Please indicate to what extent the new single register of cases of ill-treatment of children with disabilities has data disaggregated by age, disability and gender. Please also indicate whether the new reference module for the development of protocols on steps to be taken on cases of ill-treatment adopted in 2007 includes children with disabilities.

37. Please provide information on measures in place to improve the ability of children with disabilities to participate in decision-making on all matters relating to their lives.

38. Please provide information on the kinds of social protection available to children with disabilities whose families live in poverty.

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