



# Convention on the Rights of Persons with Disabilities

Distr.: General  
9 October 2012

Original: English

---

## Committee on the Rights of Persons with Disabilities Eighth session

### Summary record (partial)\* of the 80th meeting

Held at the Palais Wilson, Geneva, on Thursday, 20 September 2012, at 10 a.m.

*Chairperson:* Mr. McCallum

## Contents

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

*Initial report of Argentina* (continued)

---

\* No summary record was prepared for the rest of the meeting.

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

*The meeting was called to order at 10.05 a.m.*

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

*Initial report of Argentina* (continued) (CRPD/C/ARG/1; CRPD/C/ARG/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Argentina took places at the Committee table.*

*Articles 21–33*

2. **Ms. Bersanelli** (Argentina), replying to questions posed at the previous meeting, said that, according to the census conducted in 2010 by the national statistics institute, more than 90 per cent of students were enrolled in mainstream education. A statistical breakdown by age showed that enrolment of children and young people with disabilities declined sharply from age 15 and was under 30 per cent between ages 20 and 24. It was important to take account of the federal structure of Argentina, which resulted in disparities in education services and policy between provinces. A clear definition from the Committee of what was meant by inclusive education would help her Government and others to effect the cultural and political changes necessary in order to move forward on the issue.

3. The budget for university education had grown by 500 per cent and several free public universities had been established in disadvantaged or vulnerable areas. The Ministry of Education provided bursaries for post-secondary education to students with disabilities or of indigenous background, and projects had been undertaken to make education accessible through the provision of sign language interpretation and adapted communication technology. Support for sign language professionals was problematic because the Argentine sign language was not officially recognized. However, two bills on the matter were under discussion in the Chamber of Deputies.

4. **Ms. Monopoli** (Argentina) said that, since ratification, the Government had adopted measures to bring domestic legislation into line with the Convention, guarantee access to information and promote the independence of persons with disabilities. Guardianship policies had been reviewed as part of the reform of the Civil Code. Congress had set up a bicameral commission on the draft revised Civil Code, which was holding public consultations to ensure that the views of all interested parties, including NGOs and the National Disability Observatory, were heard. The text still contained provisions limiting the legal capacity of persons with certain disabilities, but the draft was not final and discussions were ongoing.

5. **Mr. Rosales** (Argentina) added that the draft revised Civil Code would not be finalized until October 2012 at the earliest and that changes could therefore still be made, for example the inclusion of provisions to ensure that the Code was interpreted in the light of the Convention. Argentina was a large, federal State, so the bicameral commission had opted to hold consultations in all provinces in order to ensure that the revised Civil Code took account of the varied situations on the ground. Meanwhile, the Supreme Court of Justice had collated all the case law of recent years in which judges had referred to the Convention.

6. **Ms. Bersanelli** (Argentina) said that, in addition to collaborating with the Observatory's working group on the harmonization of legislation, the Human Rights Secretariat of the Ministry of Justice, Security and Human Rights had submitted proposals for the alignment of domestic law with the Convention. The working group itself, in conjunction with civil society, was considering possible amendments to both the Civil and

Criminal Codes. Although its report would be submitted to the three branches of government, the working group was independent.

7. **Ms. Monopoli** (Argentina) said, regarding due process guarantees in connection with deprivation of liberty and the special regime applied to *inimputables* (offenders who had been declared to lack criminal responsibility), that a revision of the Criminal Code was under way and that the Human Rights Secretariat had requested the drafting committee carrying out the work to take account of the Convention in its proposals. As to deprivation of liberty in a mental health facility, the relevant due process safeguards were contained in the Constitution and the National Mental Health Act.

8. **Mr. Rossetto** (Argentina) said that, pursuant to the National Mental Health Act, panels of lawyers had been established to examine the individual cases of persons with disabilities who had been institutionalized. The panels had the authority to decide whether or not committal to an institution was advisable in each case and to approve the release of the persons concerned where appropriate. Since the establishment of the panels, approximately 1,600 cases had been examined. A commission had also been set up to monitor the treatment of persons in institutions through inspections.

9. **Mr. Rosales** (Argentina) said that the Office of the Ombudsperson ensured compliance with the Brasilia Regulations regarding Access to Justice for Vulnerable People and that there were no explicit barriers to access to justice for women with disabilities. The focus of guardianship policy was shifting towards supporting greater autonomy for persons with disabilities. Although the guardianship system functioned well at the national level, the appointment process should nonetheless be reviewed to take account of the Convention.

10. **Mr. Godachevich** (Argentina), referring to the case of a young Spaniard who had been arrested on drug charges at the Buenos Aires airport, then committed to a psychiatric facility and subsequently killed in a fire while in detention, said that both the Spanish and Argentine authorities had launched investigations into the incident, but that there was currently no new information. Since the incident, various actions had been taken under the national programme to assist persons with disabilities in their dealings with the justice system, so as to ensure that detainees were adequately assessed when they entered the prison system. A project to screen for disabilities among all inmates of federal prisons had begun at two institutions that together accounted for 30 per cent of the federal prison population, as well as in the north of the country, where there were concerns that many detainees were persons with disabilities who had been used as drug mules.

11. Turning to concerns raised about terminology in the Criminal Code, he said that the term “*mujeres idiotas*” (idiots) was indeed used in reference to women with intellectual impairments. However, the wording dated back to 1921 and would be reviewed as part of the Government’s overhaul of the Code.

12. **Ms. Albertelli** (Argentina) said that Argentina had been the first Latin American country to ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and that a bill establishing a national preventive mechanism was before the Senate. Several provinces had already defined, or were in the process of defining, torture prevention procedures.

13. **Ms. Monopoli** (Argentina) said that the Office of the Ombudsperson had issued directives that all lawyers working with persons in psychiatric facilities should be appropriately trained. Efforts to align legislation, including the National Mental Health Act, with the Convention could lead to the lifting of the current restrictions on the legal capacity of persons with certain disabilities.

14. **Mr. Rosales** (Argentina) said that declarations of insanity made by the courts had been subject to appeal even before the Convention came into force in Argentina. Since the

passing of the National Mental Health Act, the declarations of insanity currently in effect, as well as practice in previous cases, had been reviewed by the judiciary. The provisions of the Act and the Convention were being quickly implemented in the Argentine courts.

15. As part of the training provided to ensure effective access to justice for persons with disabilities in accordance with article 13 of the Convention, courses on the Brasilia Regulations had been given to law students and professional lawyers since 2009. Free training courses were also arranged for civil servants. In addition, disability issues were addressed in various free online and hard-copy legal journals, while the Supreme Court had an open online forum for discussing any matter related to the Civil Code.

16. **Ms. Albertelli** (Argentina) said that the Federal Board of Mental Health, Justice and Human Rights had organized training sessions in hospitals and health facilities to raise awareness of the Convention and to underscore the importance of implementing public policies and legislation that complied with its provisions.

17. **Ms. Bersanelli** (Argentina) said that a working group had been set up by the National Advisory Commission on the Integration of Persons with Disabilities and the Ministry of Defence to draw up a protocol for protecting persons with disabilities in situations of risk, including armed conflict, humanitarian emergencies and natural disasters. The working group would be meeting the following week to finalize the details of the protocol, and the Government would be working to ensure its implementation in the high-risk provinces in particular.

18. **Ms. Monopoli** (Argentina) said that the development of the protocol had been an inter-agency initiative, involving experts from various organizations, and had been highly challenging, not only because crisis situations by definition were complex, but because there was no relevant international experience on which to draw.

19. **Mr. Rossetto** (Argentina) said that the National Directorate for Mental Health and Addictions had been established in 2010. Its budget had risen from approximately Arg\$ 400,000 in that year to over Arg\$ 38 million in 2012. Its projected budget for 2013 was over Arg\$ 53 million. Most of the funds were allocated to community mental health projects or used to subsidize residential care, train human resources, adapt infrastructure and supply apparatus and equipment. Over 60 projects in 19 provinces had been approved, and 7 projects in 7 provinces were already under way.

20. There had been a radical shift away from the institutionalization of persons with disabilities towards community-based care; that was clearly reflected in the decline in the number of hospital beds at both national and local level that were occupied on a permanent basis by persons with disabilities. Many former residential institutions for persons with disabilities were being converted into rehabilitation centres.

21. **Ms. Monopoli** (Argentina) said that, under Argentine law, violence against women did not refer solely to domestic violence but to violence in any public or private realm and that the relevant legislation also covered acts or omissions by the State and its agents. The drafting committee working on the bill to amend the Criminal Code had been requested to include disability as an aggravating circumstance in respect of certain offences, such as torture and sexual abuse.

22. **Mr. Godachevich** (Argentina) said that, as a matter of State policy, where the victim of an offence was a person with a disability, the courts and the prosecution service were contacted to ensure that proper accommodation was made for him or her.

23. **Mr. Rosales** (Argentina) explained that the term “*sordomudo*” (deaf-mute) was not to be found in any Argentine legal instrument but was commonly used. The term “*conducta saludable*” (healthy conduct) referred to generally healthy pursuits, such as sport, not to “normal” as opposed to pathological behaviour. When talking about degrees of disability,

most local authorities now used the International Classification of Functioning, Disability and Health (ICF). The notion of “*curatela*” (guardianship) was clearly established in the Civil Code, but efforts were under way to eliminate it as the only option available to persons with certain disabilities and to amend the Code to also recognize supported decision-making arrangements.

24. **Ms. Peláez Narváez** (Country Rapporteur) said that, although the advantages of implementing the ICF system nationwide had been recognized, the criteria used for classifying disability still varied considerably from one region to the next, which violated the principle of equality of opportunity. She wished to know how many boards of certification there were in the country and whether each province had its own. She also wished to know what mechanisms had been envisaged for establishing a single disability certification scheme. The certification issue was related to the Committee’s concern about the detection of disabilities; the figures for infants and young children in particular were much lower than would be expected.

25. The Committee was also concerned about how the needs of deaf and blind persons were addressed. The Committee had been informed about the work done by the Hilton/Perkins programme but wished to know whether the central Government and the provincial governments had their own special programmes for those groups. More information on the measures taken under the Argentine Interministerial Programme on Mental Health (PRISMA) in respect of offenders who were not criminally responsible would be appreciated. The programme, though highly commendable, was only available in certain high- or medium-security prisons, not nationwide, and the conditions for women were not nearly as favourable as they were for men. She wished to know what measures were being taken to address the unequal application of the programme. The authorities might wish to consider addressing the issue of multiple discrimination in the forthcoming survey of persons with disabilities.

26. **Mr. Gombos** requested clarification as to whether children with disabilities deprived of their liberty were held in the same places of detention as adults with disabilities.

27. **Mr. Al-Tarawneh** asked what measures the State party had taken to promote and take full advantage of the international cooperation suggested in article 32 of the Convention, since Argentina could benefit from the lessons learned in other countries.

28. **Mr. Ríos Espinosa** said that Argentine law on violence against women stipulated that other persons could file complaints on behalf of women with disabilities but did not state specifically how disability issues should be handled as far as access to shelters, child care and general support services for women victims of violence were concerned.

29. **Ms. Quan-Chang** asked whether the National Disability Observatory had been designated as the independent mechanism referred to in article 33, paragraph 2, of the Convention.

30. **Mr. Kim Hyung Shik** asked whether the State party had considered other measures besides quotas to increase the employment of persons with disabilities. The Committee would like to have more information on the job security and wages of persons with disabilities and on their relations with workmates.

31. **Ms. Cisternas Reyes** asked whether there were plans to modify the law so that it would not necessarily be the chairpersons of electoral boards who accompanied and assisted persons with disabilities in the voting booth, but instead a person of their choosing, and so that persons with psychosocial disabilities who had been institutionalized would not have to claim their welfare benefits through an appointed guardian.

32. **Ms. Yang Jia** said that the protocol that was being developed by Argentina in order to give effect to article 11 of the Convention represented a pioneering effort. The State party might wish to consider sharing it with other countries as a form of international cooperation. She would be most grateful to receive a copy. In view of the fact that inclusive education led to quality employment, she wished to know whether any follow-up studies had been carried out of university graduates with disabilities who had gone on to pursue successful careers.

33. **Mr. Ben Lallahom**, responding to a question put by Ms. Bersanelli, said that inclusive education meant enabling children with disabilities to attend mainstream schools in their own neighbourhood from the beginning of their schooling, and not placing them in special schools.

*The meeting was suspended at 11.30 a.m. and resumed at 11.50 a.m.*

34. **Ms. Bersanelli** (Argentina) said that children who were deprived of their liberty were not placed in the same cells as adults.

35. Argentina initiated and participated in a variety of international cooperation activities aimed at realizing the purpose and objectives of the Convention. For example, it worked very closely with the Southern Common Market (Mercosur) in the context of the meetings of high-level human rights authorities of Mercosur and, in particular, with the working group on the promotion and protection of the rights of persons with disabilities. Argentina had organized an international seminar on the Millennium Development Goals in order to find and define indicators on the situation of persons with disabilities and was currently taking stock of legislation in Mercosur countries relating to legal capacity. Other cooperation activities had included the organization of a seminar to disseminate the Convention and, in conjunction with the Organization of American States, the provision of earthquake relief in Haiti.

36. **Ms. Tiramonti** (Argentina) said that, owing to the fairly recent establishment of the Single Disability Certificate and the proliferation of disability boards throughout the country, there were some differences of opinion regarding specific disability evaluations, and that, consequently, some adjustments were needed in order to ensure the universality of the certificate. Once all discrepancies had been resolved, the use of the certificate would help to ensure equality of rights among persons with disabilities.

37. **Ms. Bersanelli** (Argentina) added that national and provincial disability certificates had, at one time, coexisted alongside each other, which had resulted in a broad diversity of disability evaluation criteria. Given that situation, efforts had been made to harmonize the criteria, culminating in the approval in 2009 of a new disability certification protocol and the new Single Disability Certificate. Its introduction had been accompanied by training programmes in all provinces of the country. As at 7 September 2012, some 28 per cent of persons under the age of 18, or 250,269 children, possessed a Single Disability Certificate; the number of children between the ages of 7 and 9 with a Single Disability Certificate stood at 50,269.

38. **Mr. Godachevich** (Argentina) said that the PRISMA programme, which had been developed in 2011, had been launched in certain federal prisons and could certainly be replicated in the remaining federal facilities. However, the coordination needed to introduce it in provincial prisons, which contained the vast majority of the country's inmate population, would depend on the efforts made by the various provincial administrations and prison systems. The Government would actively promote the dissemination and further development of the programme to all parts of the country.

39. Argentina had a national policy on the employment of persons with disabilities, which included a system of quotas for their participation in the public sector job market. In

2011, a decision had been made to establish a directorate for promoting the employability of workers with disabilities. Moreover, significant tax breaks and social security deductions were offered by way of incentives to companies that hired a person with a disability. Employment support services, including training courses, were available for jobseekers with disabilities through employment offices located nationwide.

40. With regard to voting rights, the National Disability Observatory was currently debating the issue of whether persons with disabilities who wished to vote should be allowed to do so in the presence of an assistant of their choosing.

41. **Ms. Monopoli** (Argentina) said that the residence requirement of 20 years for entitlement to non-contributory assistance pensions for children with disabilities was an exception in the Argentine legal system, which otherwise was in conformity with international standards in that area. Other assistance benefits with a much shorter residence requirement could be requested by immigrant children with disabilities, such as the Universal Allowance for Children, eligibility for which was subject to a residence requirement of only 3 years.

42. **Mr. Godachevich** (Argentina) said that, in conjunction with civil society organizations, the National Disability Observatory was studying the possibility of bringing the contributory and non-contributory pension schemes into conformity with the standards of the Convention.

43. **Ms. Bersanelli** (Argentina) said that, in June 2012, some 113,000 children had been receiving disability pensions. A working group of the National Disability Observatory was in the process of elaborating a protocol on inclusive education. When it was completed, she would ensure that a copy was sent to the Committee. Given the fact that, at the fifth session of the Conference of States Parties to the Convention, some States had seemed to think that inclusive education could be provided through special schools outside the regular school system, it was important to know what the Committee's definition of that concept was.

44. The National Disability Observatory was indeed the mechanism established in Argentina to give effect to article 33 of the Convention. Since its inception less than a year previously, it had operated independently and had been very effective in bringing together persons with disabilities, NGOs and public officials, in keeping with the idea that joint action was necessary in order to bring about a change in policies on disability.

45. **Mr. Godachevich** (Argentina) said that he wished to clarify a misunderstanding that had arisen in the interactive dialogue with regard to the issue of guardianship: in fact, legislative reforms had been made in Argentina more than two decades previously in order to enable blind persons to act as legal guardians.

46. **Ms. Monopoli** (Argentina) said that Act No. 26.485, on comprehensive protection for women, reflected a public policy based on several core international human rights instruments. Although the Act did not contain an explicit reference to disability as a cross-cutting factor, the instruments on which it was based provided a solid foundation for its interpretation. The Government had made great efforts to raise awareness among public officials about the need to interpret the Act taking into account the principles of universality, non-discrimination and the interrelatedness of all human rights and that of the primacy of international human rights treaties over domestic law.

47. **Mr. Al-Tarawneh** said that he wished to reiterate a question he had posed earlier concerning the development of strategies to promote higher education for persons with disabilities.

48. **Ms. Peláez Narváez** asked whether the Criminal Code currently in force in the State party limited the right of persons with disabilities to found a family.

49. **Ms. Yang Jia** said that she would appreciate information on what steps the Government might envisage taking in order to promote inclusive education in autonomous universities.

50. **Mr. Rosales** (Argentina) said that, although there had been cases in which certain autonomous universities had attempted to use their self-governing status to circumvent their obligations under the Convention, the courts had ruled that they too, like State-funded universities, were required to comply with the instrument. State-funded universities had been carrying out disabilities programmes for the past seven years. The participants in the University and Disability Programme met regularly in various provinces to ensure full access to State-funded and autonomous universities for persons with disabilities. Free public education had been a principle in Argentina for many decades, and all persons had the right to education.

51. **Ms. Bersanelli** (Argentina) said that she would provide the Committee with a copy of the comprehensive programme for accessibility to State-funded universities, which had been produced by the Inter-University Commission on Disability and Human Rights. Argentina promoted the integration of persons with disabilities in universities by means of non-merit-based scholarships, which were available in universities throughout the country. In addition, the vast majority of State-funded universities had set up support units for students with disabilities.

52. **Mr. Godachevich** (Argentina) said that there was no provision in the Criminal Code that prohibited a person with a disability from founding a family.

53. **Ms. Bersanelli** (Argentina) said that the interactive dialogue with the Committee had offered a valuable opportunity for identifying areas in which the State should improve its implementation of the Convention. Many injustices had been committed around the world against persons with disabilities, and Argentina was no exception. The President of the Republic had recognized and asked forgiveness for the human rights violations that had taken place in Argentina. Much remained to be done, and her Government was committed to working hand in hand with persons with disabilities and their representative organizations to make the needed changes.

54. **Ms. Peláez Narváez** said that more efforts were required to secure the recognition of persons with disabilities in Argentina as persons before the law, with all that that entailed in a federal system of government, and to ensure that persons with disabilities were free to make decisions about matters that concerned them. She thanked the delegation for its candid replies and for the progress it had achieved thus far.

*The discussion covered in the summary record ended at 12.30 p.m.*