



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities

#### List of issues in relation to the initial report of the Bolivarian Republic of Venezuela\*\*

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

1. The Committee notes that the State party is faced with an emergency situation characterized by political, civil, economic and social instability that has serious consequences for the civilian population, including persons with disabilities, and particularly women and children with disabilities, who are experiencing growing levels of violence and discrimination. The State party has the obligation to implement the Convention in emergency and crisis situations, and the present list of issues has been drafted in this context.

2. Please provide information on:

(a) The measures adopted to ensure that the legislative framework, in particular the Act on Persons with Disabilities (2006) and the bill on the protection, care and dignified treatment of persons with disabilities, is consistent with the Convention, and on the measures adopted to remove, from domestic legislation, terms contrary to the Convention, such as “person with a serious and habitual condition of intellectual or mental disability”, “symptoms of mental disturbance that do not correspond to mental illness properly speaking” or “those who suffer from physical mutilations that involve disability”;

(b) The measures taken to recognize and explicitly punish in law discrimination on the basis of disability, including the denial of reasonable accommodation as a form of discrimination, in accordance with article 2 of the Convention;

(c) How the members of the People’s Government Presidential Council for Persons with Disabilities are appointed and the number of current public policies on which it has provided input;

(d) The measures taken to develop and adopt cross-sectoral national plans of action for incorporating a disability perspective into legislation, public policies and practices based on human rights. Please include information on objectives, specific indicators, time frames and targets, the budgets and resources assigned at all levels, and the steps taken to ensure cooperation between sectors.

3. Please also provide information on:

(a) The measures taken to ensure the full and effective participation of persons with disabilities, through their representative organizations, at all stages of all disability-related legislation and policies, in particular in their wording, implementation and review,

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\*\* Adopted by the pre-sessional working group at its twelfth session (23 to 27 September 2019).



and in other policy- and decision-making processes, at the federal, regional and community levels;

(b) Any restrictions on the establishment of organizations of persons with disabilities and on their participation in decision-making in State ministries because of their lack of political affinity with the Government;

(c) The measures taken to ensure that persons with disabilities are not attacked or arrested during peaceful demonstrations triggered by the current political situation in the country.

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

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

4. Please provide information on the measures taken to:

(a) Strengthen the anti-discrimination legislative framework and improve its application in order to eliminate all forms of disability-based discrimination, including intersectional and multiple discrimination, and discrimination by association;

(b) Amend article 21 of the Constitution, which makes no explicit mention of persons with disabilities;

(c) Establish a mechanism for receiving complaints or reports of discrimination on the grounds of disability. Please include information on any measures taken to bring all forms of multiple and intersectional discrimination within the mandate of the Equal Treatment Commission;

(d) Collect data on cases of discrimination. In addition, please provide statistics on the number and percentage of reports of discrimination on the basis of disability, disaggregated by sex, age, type of barrier encountered and sector in which the discrimination occurred, as well as information on the remedies and redress available, including monetary compensation.

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

5. Please provide information on the measures taken and mechanisms established to:

(a) Address the negative impact of the emergency situation on the lives of women and girls with disabilities so as to protect their rights and to avoid exacerbating the entrenched discrimination against them;

(b) Include gender and disability perspectives in legislation and policies in the State party, in the spheres covered by the Convention, bearing in mind the risk and marginalization factors specific to women and girls with disabilities, especially those with a psychosocial or intellectual disability. Please indicate how the public authorities ensure that organizations of women and girls with disabilities are heard and that proper account is taken of their decisions;

(c) Mainstream the participation of women and girls with disabilities in the implementation of the “Mamá Rosa” Gender Equality and Equity Plan (2013–2019);

(d) Ensure that the National Office for the Defence of Women’s Rights mainstreams the concerns of girls and women with disabilities in its programmes and that it keeps records, appropriately disaggregated, of their complaints of violence or discrimination, whether in the home or in institutions, and the resulting punishments, follow-up and means of redress.

6. Please indicate how many women with disabilities or women who have children with disabilities have benefited from the Madres del Barrio (Neighbourhood Mothers) Mission for single mothers and what measures have been taken by the State party to ensure that women and girls with disabilities participate in decision-making.

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

7. Please provide information on:

(a) The steps taken to ensure that the Child and Adolescent Protection Act and the National Umbrella System for the Comprehensive Protection of Children and Adolescents incorporate a cross-cutting focus on children with disabilities;

(b) The measures taken to ensure that all children with disabilities are supported in expressing their views and that the latter are given due weight, bearing in mind the age and maturity of the child, when decisions affecting them are made, and on the measures taken to promote the establishment of organizations of children with disabilities and to involve them in public decision-making.

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

8. Please provide information on the awareness-raising strategies adopted as part of the programmes of the National Council for Persons with Disabilities and the Fundación José Gregorio Hernández and on the steps taken to promote a human rights-based approach to awareness-raising that is compatible with the Convention.

**Accessibility (art. 9)**

9. Please provide information on:

(a) Comprehensive plans to ensure the accessibility of the physical environment, transportation and information and communications technologies, and on the respective goals, time frames, budgets and penalties for non-compliance;

(b) Municipal and other local laws and policies and their compatibility with article 9 of the Convention;

(c) Whether the National Council for Persons with Disabilities is authorized to carry out inspections and impose sanctions when accessibility standards are not met, and the Council's procedure for checking that public and private institutions provide reasonable accommodation so as to ensure the accessibility of facilities in the areas defined by the Convention for persons with disabilities;

(d) The results achieved by the National Accessible Communication Service, established in 2014, and the adoption by the national "Science in Signs" programme of measures to make up for the lack of scientific terms in sign language.

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

10. Please provide information on the specific measures taken in connection with persons with disabilities to address the rise in mortality rates, particularly maternal and infant mortality rates, and the increased prevalence of preventable diseases, such as malaria.

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

11. Please provide information on the measures taken to address the root causes of the current humanitarian crisis, which has forced more than 4.3 million people to leave the State party, and on the steps taken to ensure the protection and safety of persons with disabilities in accordance with international human rights standards, including the Convention. Please also state whether plans and programmes for managing risks, emergencies and disasters are drawn up in accordance with the Sendai Framework for Disaster Risk Reduction and whether they incorporate specific measures for persons with disabilities, including material in accessible formats and modes such as Braille, Easy Read and other means of communication.

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

12. Please provide information on the measures taken to:

(a) Lift restrictions on legal capacity, such as the interdiction and disqualification processes, and promote customized support mechanisms for decision-making in all spheres of life, especially for persons with psychosocial or intellectual disabilities;

(b) Abolish the system that deprives persons with disabilities of their legal capacity, including through judicial decisions.

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

13. In the light of the emergency situation currently affecting the State party, please provide information on how persons with disabilities are guaranteed effective access to justice in the formal justice system. Please also provide information on:

(a) How the State party ensures that all violations of the rights of persons with disabilities, particularly those of women and children, committed in the context of the emergency situation by State and non-State actors, most notably acts of sexual violence and violations of economic, social and cultural rights, are duly investigated, prosecuted and punished by means of legal proceedings against the perpetrators;

(b) The steps taken in the administrative and justice systems to provide persons with disabilities with procedural and age-appropriate accommodations in all legal proceedings, including when they appear as witnesses;

(c) The number of judicial officials and public defenders who have received training on the Convention and human rights and on whether the rights of persons with disabilities are specifically covered in such training;

(d) The steps taken to ensure that the accessibility measures that are already in place in 15 courts are introduced in all other courts and administrative bodies. Please also indicate whether all courts and administrative bodies are equipped with sign language interpreters and material in accessible formats such as Braille, Easy Read and other accessible means of communication;

(e) The measures taken to ensure the accessibility of the correctional facilities in which prosecuted persons with disabilities will serve their sentences.

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

14. Please provide information on the steps taken to repeal the legislation that currently allows for deprivation of liberty on the basis of actual or perceived impairment or disability, and on the measures taken to:

(a) Amend the Criminal Code in order to eliminate derogatory language such as that used in articles 58, 62, 72, 114 (1) and (3) and 77 (8);

(b) Develop a legal framework that is in line with the Convention in the area of mental health and the family;

(d) Eliminate the practice of forced hospitalization and treatment of all persons with disabilities.

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

15. Taking into account the gravity of the human rights violations committed in the country, as confirmed by the referral of allegations of crimes against humanity for investigation by the Prosecutor of the International Criminal Court on 26 September 2018, the statement made by the United Nations High Commissioner for Human Rights on 21 June 2019 and the Memorandum of Understanding signed on 20 September 2019 between the Office of the United Nations High Commissioner for Human Rights and the State party, please provide information on:

(a) The steps taken, under the Special Act to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment in particular, to ensure that no person with disabilities is subjected to torture or cruel, inhuman or degrading treatment or punishment, including involuntary or forced institutionalization, corporal punishment, sterilization,

abortion or other non-consensual medical procedures or involuntary or excessive drug treatment;

(b) The measures taken to ensure that the National Commission for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment and the Ombudsman's Office have the necessary data on the number of complaints, broken down by motive of the complaint, age and sex of the complainant and disability, the punishments handed down and the steps taken to ensure redress and follow-up;

(c) Whether the 44 courts specializing in the protection of women and gender equality, the 46 prosecutors' offices specializing in the defence of women, the shelters for women victims of rape and the Protection Councils and prosecutors' offices catering to children and adolescents adopt a cross-cutting approach to their work with women and children with disabilities and whether they have trained personnel to attend to them.

**Freedom from exploitation, violence and abuse (art. 16) and protecting the integrity of the person (art. 17)**

16. Please indicate what measures have been taken to eradicate all forms of violence against and ill-treatment of persons with disabilities, particularly whether the forced sterilization of persons with disabilities, especially girls and women with psychosocial or intellectual disabilities, is prohibited by law, and whether, in practice, compliance with article 46 (3) of the Constitution on the free and informed consent of persons with disabilities in respect of medical or pharmacological treatment is monitored.

17. Please also indicate whether the offices of the National Council for Persons with Disabilities located in individual states have disaggregated data on complaints in this respect; and please provide information on the supervisory visits carried out in psychiatric centres in response to reports of ill-treatment, the resulting punishments and follow-up, and on the training programmes on the rights of persons with disabilities for persons working in such centres.

18. In addition, please indicate whether the Act on Women's Right to a Life Free from Violence is informed by a cross-cutting approach to women and girls with disabilities, especially those with psychosocial or intellectual disabilities, and whether the staff members who attend to girls and women who are victims of violence are qualified also to attend to girls and women with disabilities.

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

19. Please provide information on the measures taken to ensure the accessibility of procedures for obtaining, possessing and utilizing documentation of nationality, the accessibility of immigration proceedings and the safeguards provided in those proceedings in order to facilitate the exercise by persons with disabilities of their right to liberty of movement.

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

20. Please indicate:

(a) Whether, in coordination with organizations of persons with psychosocial or intellectual disabilities, any mechanisms have been established to support deinstitutionalized persons who were formerly housed in psychiatric hospitals and who are now facing life on the streets;

(b) What mechanisms are in place to monitor the closure of institutions, what short- and medium-term objectives have been set in this respect, and what measures have been taken to promote the independent living and inclusion of persons with disabilities, including the proportion of the State budget allocated to related community initiatives;

(c) What steps have been taken to ensure that all persons with disabilities remain free to choose their place of residence and where and with whom they live and that they are not obliged to agree to particular residential arrangements and can make their own decisions regarding their inclusion in the community;

(d) Whether more community committees for persons with disabilities have been set up and whether their activities have prevented institutionalization.

21. Please provide information on the steps taken to adopt the national policy to promote the quality of life and personal autonomy of persons with disabilities and whether there are plans to provide persons with disabilities with housing, support, community networks and accessible services in local communities, including customized assistance and support.

22. Please also provide specific, disaggregated data on the proportion and number of persons with disabilities who live in institutions and the number who have alternative housing arrangements, and information on the measures taken to deinstitutionalize them.

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

23. Please indicate whether there has been an increase in the number of orthotic and prosthetic laboratories in all states, whether the wheelchairs made in those laboratories are tailored to individual users and whether the laboratories maintain mobility aids for persons with disabilities free of charge.

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

24. Please indicate how many Venezuelan Sign Language interpreters and guides the National Council for Persons with Disabilities has trained through its programmes and what measures have been taken to ensure that persons with disabilities have access to public information and the mass media in all accessible and usable formats, including Braille, Easy Read and plain language, and through deafblind interpretation, sign language, audio description and subtitling for deaf persons.

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

25. Please provide information on:

(a) The measures taken to amend any legislation that restricts the rights of persons with disabilities, particularly persons with psychosocial or intellectual disabilities, deaf persons or blind persons, in respect of marriage, home and the family;

(b) The measures taken to ensure that persons with disabilities can exercise their rights in respect of parenthood and the adoption or fostering of children on an equal basis with others. Please also indicate whether the Family Orientation and Training Programme of the National Council for Disabilities includes counselling for persons with disabilities on personal relations, marriage, sexual orientation and reproduction, their right to custody of their children (with or without disabilities) and their right to adopt.

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

26. Please provide information on:

(a) The results of the National Consultation on the Quality of Education held in 2014 and whether it has contributed to educational inclusion;

(b) The steps taken to formulate a national inclusive education plan and to address the three phases of segregated education;

(c) The number of persons with disabilities, broken down into relevant categories, who have learned to read and write with the help of the Robinson Mission.

27. Please indicate:

(a) How many students with disabilities have been able to study at universities in rural, agricultural and remote areas thanks to the Sucre Mission;

(b) What progress has been made in connection with the comprehensive support scheme for students with disabilities at the National Experimental University of the Armed Forces of the Ministry of People's Power for University Education, Science and Technology.

**Health (art. 25)**

28. Please provide information on the measures taken to:

- (a) Ensure that health professionals, including doctors and nurses, are trained to provide essential health-care services, particularly to persons with disabilities;
- (b) Ensure that persons with disabilities have access to health programmes, including sexual and reproductive health programmes, on an equal basis with others;
- (c) Ensure that hospitals and health centres are universally accessible and have accessible equipment, including accessible means of communication.

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

29. Please indicate:

- (a) How many jobseekers with disabilities have been referred for job placement, in both urban and rural areas, by the National Council for Persons with Disabilities; please also provide relevant disaggregated data;
- (b) Whether the number of persons with disabilities employed by companies (37,293 at the time of reporting) has grown and what percentage of all persons with disabilities of working age in the State party these persons represent;
- (c) What results the obligation for employers to reserve 5 per cent of positions for persons with disabilities set out in article 290 of the Labour and Workers Act has yielded; please also provide relevant disaggregated data and information on the fines issued for non-compliance.

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

30. In the light of the increasing poverty rate in the State party, please indicate what measures have been taken to guarantee the right of persons with disabilities to an adequate standard of living without discrimination on the basis of disability. Please also indicate:

- (a) What social protection coverage is available to the 452,678 people who, according to the unsatisfied basic needs method, are negatively affected by the deprivation denoted by this indicator in both urban and rural areas (see CRPD/C/VEN/1, para. 165);
- (b) Whether the objective of the Zero Poverty Plan will have been reached in 2019, as forecast in the 2016 voluntary report on the Sustainable Development Goals;
- (c) What efforts have been made to maintain funding for programmes for persons with disabilities in times of economic crisis;
- (d) How the José Gregorio Hernández Mission, the “Hijos de Venezuela” (Children of Venezuela) Mission, the “Hogares de la Patria” (Homes for the Nation) Mission, the “Vivienda Venezuela” (Venezuelan Housing) Mission and the “En Amor Mayor” (Greater Love) Mission have contributed to the social inclusion of persons with disabilities;
- (e) What measures have been taken to prevent children and adults with disabilities who have been placed in residential facilities from ending up destitute.

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

31. Please indicate:

- (a) How Braille, sign language interpretation, Easy Read and other alternative means of communication are used in the voting system;
- (b) Whether there are restrictions on the right of persons with psychosocial or intellectual disabilities or deaf persons to vote or to run for office;
- (c) Whether there are persons with disabilities in elected office at the national, state and municipal levels and what the State party has done to help organizations of persons with disabilities participate more fully in politics and society.

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

32. Please indicate whether the number of persons with disabilities in the State party has been updated since the 2011 census. Please also indicate what tools the National Council for Persons with Disabilities and the National Institute of Statistics developed to collect the data that were distributed to the country's ministries and the data that were produced over the past year, broken down by age, sex and disability.

**International cooperation (art. 32)**

33. Please describe:

(a) The outcome of the implementation of the projects proposed by the State party at the twenty-fourth Meeting of High Authorities on Human Rights, in particular the project involving the creation of a company to produce assistive technologies, the project involving the construction of integrated humanistic centres and the proposal on accessibility made to the Southern Common Market (MERCOSUR);

(b) The outcome of the unifying development of communities and transportation undertaken within the framework of the Bolivarian Alliance for the Peoples of Our America; please also provide relevant data thereon;

(c) The measures adopted to ensure that the State party's international cooperation programmes and policies are accessible to persons with disabilities;

(d) The measures taken to implement the 2016 National Strategic Plan for an Inclusive Society.

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

34. Please provide information on the steps taken to appoint one or more focal points within the Government for matters relating to the implementation of the Convention and to establish an independent monitoring mechanism that is allocated resources from the budget and is compatible with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) to supervise the implementation of the Convention. Please also indicate what measures, if any, have been taken to ensure the involvement of persons with disabilities and their representative organizations in the mechanism's work.

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