



## Convention on the Rights of Persons with Disabilities

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

#### Summary record of the 3rd meeting\*

Held at the Palais des Nations, Geneva, on Tuesday, 20 September 2011, at 10 a.m.

*Chairperson:* Mr. McCallum

### Contents

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

*Initial report of Spain*

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\* No summary record was issued for the 2nd meeting.

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*The meeting was called to order at 10 a.m.*

### **Consideration of reports submitted by States parties under article 35 of the Convention**

*Initial report of Spain (CRPD/C/ESP/1; CRPD/C/ESP/Q/1 and Add.1; HRI/CORE/ESP/2010)*

1. *At the invitation of the Chairperson, the delegation of Spain took places at the Committee table.*
2. **The Chairperson** said that the Committee considered Spain to have set an example by being the first country to have submitted its report within the time frame established under article 35 of the Convention on the Rights of Persons with Disabilities, namely within two years after the entry into force of the Convention for the State party concerned.
3. **Mr. Santos Maraver** (Spain) pointed out by way of introduction that Spain was the second State party to engage in a dialogue with the Committee, a fact that reflected its commitment to implementing the Convention. Moreover, the protection of human rights and the principle of equality, from which a number of rights were derived, were enshrined in the 1978 Constitution. Under article 49 of the Constitution, which referred specifically to persons with disabilities, the public authorities were required to ensure that they had the same rights as other citizens and to provide them with the special care they needed for the effective enjoyment of their rights.
4. Since equality was also a core component of the Human Rights Plan that had been adopted on 12 December 2008, Spain's efforts were guided by respect for difference and the promotion of integration. More specifically, Spain had taken several legislative measures to translate the general principles contained in the Constitution into enforceable rights for all, guaranteed by the judicial system. At the international level, Spain worked closely with the international treaty bodies and other organizations responsible for ensuring that human rights were respected.
5. Spain had drafted its periodic report for the Committee carefully and was convinced that the observations and recommendations that would be formulated after it had been considered would be invaluable in helping it to continue to improve and develop its human rights protection and promotion mechanisms. The importance attached by the Spanish Government to fighting all forms of discrimination was reflected in the composition of its high-level delegation of senior officials, including two persons with disabilities, from various ministries (health, social policy and equality; justice; labour and immigration; the interior; the education; and foreign affairs and cooperation).
6. **Ms. Martínez Lozano** (Spain) said that, ever since the advent of democracy in Spain, persons with disabilities had been treated on an equal basis with other citizens, as required by article 49 of the 1978 Constitution. With the entry into force in April 1982 of the Act on the social integration of persons with disabilities, known in Spain under the acronym "LISMI", popular perceptions of disability had shifted and finally moved beyond the traditional biomedical and "assistance-driven" approaches. Since then, public disability policies in Spain had been based on human rights. Guided by the principle of non-discrimination, their aim was to promote personal independence and autonomy, universal accessibility, disability mainstreaming and the participation of persons with disabilities in the economic, social, cultural and political life of the country.
7. From a statistical perspective, the first national disability survey, which had been conducted in 1986, and the survey on disability, personal autonomy and situations of dependency, carried out in 2008, had helped to provide a more accurate picture of disability in Spain and to form a more reliable assessment of the situation. The concept of disability

policy mainstreaming, which guided the work of the Directorate-General for the Coordination of Sectoral Policies on Disability, had gradually been established as the centrepiece of the National Strategy for persons with disabilities (2012–2020) and the associated action plan that Spain was about to adopt.

8. Recent surveys showed that persons with disabilities had become fully accepted members of society: 90 per cent of those interviewed said that they had never felt discriminated against. In that regard, it was necessary to underline the important role played by civil society organizations in defending the rights of persons with disabilities. Over the years, the Spanish Committee of Representatives of Persons with Disabilities (CERMI), the official voice of organizations of persons with disabilities before all national, regional and local institutions, had always been an essential partner thanks to its constructive work, collaborative spirit and pertinent criticism. It had recently been designated by the Spanish authorities as the independent mechanism responsible for promoting, protecting and monitoring implementation of the Convention, without prejudice to the powers of the Office of the Ombudsman, which was the national human rights institution.

9. Universal accessibility, which was an absolute precondition for the full realization of the rights of persons with disabilities in all areas of social life, was another concept central to the Spanish Government's approach. Act No. 51/2003 on equality of opportunity, non-discrimination and universal accessibility for persons with disabilities (LIONDAU), adopted in 2003, provided for a series of measures to guarantee and give effect to the right of persons with disabilities in that regard. The Act had made accessibility a concrete reality in a number of areas, including transport, town planning, the administration of justice and telecommunications.

10. In 2009, the Council of Ministers had commissioned a report from an inter-ministerial working group tasked with identifying the amendments required to bring Spanish legislation into line with the Convention. Following publication of the report on 30 March 2010, Act No. 26/2011, which had been drafted with civil society involvement and provided for amendments to some 20 laws affecting the daily lives of persons with disabilities, had entered into force on 1 August 2011. The definition of a person with disabilities had been brought into line with the definition in the Convention and a new chapter had been devoted to equality and non-discrimination in access to public goods and services. The chapter established, *inter alia*, new clauses on insurance contracts for persons with disabilities and the express possibility of their receiving compensation in the event of discrimination.

11. With regard to education, article 23 of the Act on the social integration of persons with disabilities established the general principle of integrating persons with disabilities into the ordinary education system. Currently, 70 per cent of children with special needs were attending regular schools and 16 per cent of students in secondary and higher education had disabilities. However, it had to be acknowledged that much remained to be done. Consequently, a forum had been set up in 2011 under the direction of the Minister of Education on the inclusion of pupils and students with disabilities in the school system. The forum, which brought together all the relevant stakeholders from the political, administrative and voluntary sectors and from schools and universities, was tasked with determining the action to be taken to improve the level of instruction, education and training of persons with disabilities.

12. The General Health Act had been amended in order to ensure that persons with disabilities had the right to access, in appropriate and understandable formats, information concerning them, in particular in order to be able to give their consent regarding organ donation and transplantation and assisted reproduction. Organization Act No. 1/2010 also established the principle of access to pregnancy, delivery and post-partum services. It also recognized the specific needs of persons with disabilities and the need to provide them with

services, including in the areas of sexual and reproductive health, to support informed and independent decision-making.

13. In the area of employment, the Global Action Strategy for the Employment of Persons with Disabilities, which had been introduced in 2008, had enabled Spain to achieve great progress in providing unskilled jobs for persons with disabilities, despite the economic crisis and rising unemployment in the country. In 2010, some 60,000 persons with disabilities had found employment, which represented an increase of 18 per cent in their employment rate. The policies and programmes introduced by Spain were in line with European Union guidelines. Without the inclusion of persons with disabilities, it would be impossible to achieve three of the five headline targets of the Europe 2020 strategy, namely raising the employment rate to at least 75 per cent; reducing school dropout rates to below 10 per cent and increasing to at least 40 per cent the number of 30 to 34 year-olds completing third level education; and reducing the poverty level by 25 per cent, thereby lifting 20 million people out of poverty.

14. Considerable efforts had been made to support mobility and many improvements had been made to transport infrastructure to ensure access for persons with disabilities to trains and stations, particularly within the context of Atendo, a personalized assistance service for travellers offered by the two major public railway companies, Adif and Renfe. Experience in that area had demonstrated the importance of partnerships between the public and private sectors, in particular with large multinational companies, whose dynamic approach was of great value, particularly with regard to raising public awareness and technological innovation.

15. Implementation of the Convention required an ongoing process of reflection on possible regulatory innovations and changes. Citizen participation by persons with disabilities was an example of what was needed. A recently adopted law provided for their participation in the functioning of the justice system, in particular their participation in juries. In March 2011, a royal decree had been promulgated with a view to facilitating the participation of persons with disabilities in political life and electoral processes, including the exercise of the right to vote. Specifically, the deaf and the hard of hearing could now act as polling station staff, since sign language interpretation services were provided free of charge.

16. A strategy to promote culture for all had also been developed, and in sport, paralympic athletes benefited from a programme of grants on the same basis as Olympic athletes. Lastly, in accordance with article 32 of the Convention, Spain subsidized many bilateral and international cooperation projects. Thanks to European Union funding, a twinning project with Tunisia to promote the integration of persons with disabilities in education and employment should soon be in place.

17. In conclusion, a brief look at the past showed that the aspect of social life that had changed most in Spain over the previous 25 years was the daily life of the country's 4 million or so persons with disabilities.

18. **The Chairperson** drew the participants' attention to the absence of Ms. Peláez Narváez, an eminent member of the Committee and a national of Spain, who was required under rule 43 of the Committee's rules of procedure not to take part in the consideration of the State party's report. He also recalled that the Committee encouraged States parties to include in their delegations one or several persons with disabilities.

19. **Mr. Santos Maraver** (Spain) drew attention to the presence in the delegation of Ms. Peña Roldán, Executive Director of the Permanent Specialized Office of the National Council on Disability, and Mr. Palacios Blanco, Head of the Special Educational Needs Service in the Ministry of Education, who had hearing and physical impairments, respectively.

20. **Mr. Torres Correa** (Country Rapporteur) said that he welcomed the adoption of Act No. 26/2011, which was designed to bring legislation into line with the Convention by amending some 20 laws. However, he drew attention to the need for associations of persons with disabilities to be able to participate in developing public policy. In view of the lack of statistics on disabled persons living in poverty and extreme poverty and disaggregated data on persons with disabilities, it was impossible to assess to what extent the basic needs as set out in the report had been met. The measures taken by the State party with respect to accessibility to housing appeared inadequate and the amendments to the Act on condominiums would appear to be minor. It was apparently difficult for many persons with disabilities to get out of their homes in order to enjoy their leisure time and integrate fully into society.

21. As to the right to live independently and to be included in the community, there was little information on the support provided to promote the autonomy of persons with disabilities. The only law to have been drafted on the subject in recent years had not yet been implemented.

22. With regard to health, the report referred to Act No. 16/2003 on cohesion and quality in the national health system, but no specifically adapted social and health service had yet been introduced. It was not clear whether the accessibility scheme applied only to buildings or whether it also included equipment and appliances used by persons with disabilities, particularly persons with physical disabilities. Furthermore, it was important that people caring for the disabled, public health service workers and, more generally, all specialist staff and service providers in the areas of health, justice, employment and education were adequately trained to provide proper care for persons with disabilities.

23. With respect to work and employment, the report contained no indication of the number of penalties imposed on companies with more than 50 employees for failing to meet the legal quota of employees with disabilities (2 per cent) and no explanation as to why contracts were still being awarded to service providers and prime contractors working with those companies.

24. It was not possible from the report to assess the effectiveness of the measures taken regarding women and children with disabilities. It would be useful to receive information on action plans for children with disabilities, violence against women with disabilities and the number of shelters for battered women that were accessible to disabled women, regardless of their disability. It would be interesting to know whether there were specific programmes for women with disabilities, in particular regarding the training of staff responsible for meeting their specific needs. The Child Observatory had apparently approved a protocol for intervention in child abuse cases, but no data were available to assess the measures adopted and to determine whether they were tailored to the specific needs of children with disabilities. He wished to know whether, in addition to measures for children with disabilities who were unable to attend classes regularly or keep up with their studies, there were any plans or programmes focusing on recreational activities for children and young persons with disabilities.

25. The official definition of a person with disabilities had to be reviewed, because the method used to assess disability, which was based on percentages, excluded some people from a wide range of State services. Furthermore, there was little information about situations of risk and humanitarian emergencies or about measures taken by the authorities to inform persons with disabilities of the existence of relevant protocols.

26. As regards guardianship guarantees, even though guardians were required by law to submit reports on financial matters and on the person under guardianship, it would appear that the reports submitted were not approved by a judge but merely placed on file, so that the Office of the Attorney-General and the judiciary would intervene only when a scandal

occurred or the person under guardianship died and the file had to be closed and an heir appointed. He would welcome further information on the subject.

27. Lastly, he wished to know what programmes the State party had implemented to ensure that prisoners with disabilities received the support they required to safeguard their physical integrity.

28. **Mr. Langvad**, referring to article 4 (4) of the Convention, said that he would like to know what status the Convention had in relation to the Spanish Constitution, national laws and European regulations. He also wished to know how, on the one hand, Spain ensured that those involved in the legal system had the necessary qualifications to take responsibility for decisions, which were often based on the advice of physicians, and how, on the other hand, in response to the needs of persons with disabilities, the social model based on the participation of persons with disabilities was taken into consideration. He requested additional information on how Spanish legislation guaranteed non-discrimination, including on the grounds of disability. He also wished to know whether the existing legislation applied to all levels of society, in both the public and the private sectors, and to all persons living in the territory of the State party.

29. **Mr. Ben Lallahom** asked whether, in relation to disability, the State party still applied a medical model or whether it now used the social model as defined in the International Classification of Functioning, Disability and Health (ICF), which recommended assessing the independence of persons with disabilities and environmental factors rather than their disability rating.

30. **Ms. Quan-Chang** asked how, in practice, it might be possible to improve the classification of persons with disabilities for the purposes of determining social and financial benefits, so as to avoid the exclusion of any person, in particular persons with hidden disabilities.

31. **Mr. Tatić** said that he would like further information on proceedings in the courts following complaints of discrimination and on the number of cases brought so as to have a sense of how legislation was being implemented in practice. He asked for more information about measures in respect of reasonable accommodation. In view of the high degree of self-governance and extensive powers enjoyed by the Autonomous Communities in Spain, he asked how the State party ensured that all persons with disabilities could assert their rights, equally and without discrimination, throughout the country.

32. **Ms. Cisternas Reyes** asked whether people with a disability rating of less than 33 per cent received protection, whether legislation provided protection against acts of indirect discrimination, such as a refusal of reasonable accommodation and what penalties were applied in such cases. She also wished to know whether it was necessary to present some evidence of disability, such as a certificate, to be able to sue for discrimination.

33. **Mr. Gombos** said that he would welcome information on measures taken by the State party to ensure that children with disabilities were actively involved in the implementation of the Convention and any examples in that regard.

*The meeting was suspended at 11.05 a.m. and resumed at 11.20 a.m.*

34. **Ms. Martínez Lozano** (Spain) said that the Spanish public authorities worked closely with the Spanish Committee of Representatives of Persons with Disabilities (CERMI) and the National Council on Disability to develop disability legislation and policies. CERMI was particularly active and public policies were to a large extent driven by its observations. In terms of statistics, the Spanish authorities would soon be considering a report on the impact of poverty on persons with disabilities, especially in the area of housing. The 2008 survey on disability, personal autonomy and situations of dependency provided a complete and still accurate picture of the social reality of persons with

disabilities in Spain. It should be noted in that regard that the indicators used in the survey had been developed by the Disability Observatory.

35. **Mr. Alejandro** (Spain) said that Spanish legislation prohibited any form of discrimination against persons with disabilities. Act No. 26/2011, which had entered into force on 2 August 2011, reproduced the definition of persons with disabilities contained in the Convention and imposed no requirement of official certification of disability. The reason for a disability rating threshold of 33 per cent was simply that lawmakers had made the implementation of certain affirmative action measures, including subsidies and grants made available under public policies designed to guarantee employment opportunities, conditional on the presentation of certain proofs of disability. A provision of Act No. 26/2011 required the Government to take, within one year, new affirmative action measures targeting disabled persons with a disability rating of less than 33 per cent. All persons with disabilities, without distinction, could therefore avail themselves of protective measures (arbitration, judicial protection, reversal of the burden of proof, etc.) provided for by the law in discrimination cases.

36. Spain no longer used a purely medical model of disability but applied a multidisciplinary model that was similar to the International Classification of Functioning, Disability and Health (ICF). The degree of dependency or incapacity was determined following an assessment made by a physician, psychologist and social worker. Under Royal Decree No. 174/2011, which had been adopted recently, the Spanish authorities had one year to bring their rating system into line with the ICF.

37. **Ms. Martínez Lozano** (Spain) said that the Act on condominiums, which governed the access of persons with reduced mobility to buildings, had been amended and now required owners to carry out necessary adaptations.

38. **Mr. Martín** (Spain) said that Act No. 26/2011 introduced amendments concerning the adaptation of buildings to meet the needs of persons with disabilities. Henceforth, the total cost of works should not exceed an amount equivalent to the co-owners' routine expenditure over a 12-month period, as compared to 3 months previously. Public funding and support schemes were available, including at the level of the Autonomous Communities, to help co-owners and owners to carry out the works required to meet accessibility obligations.

39. **Ms. Peña Roldán** (Spain) said that, under the public assistance plan (2009–2012) for the renovation of the private dwellings of persons with reduced mobility, financial assistance could be requested to carry out necessary refurbishment works.

40. **Mr. Alejandro** (Spain) said that a refusal of reasonable accommodation could be appealed and that it was not necessary to present proof of disability to make a complaint, whether through the Permanent Specialized Office or the competent national or regional administration. With respect to the safety and protection of persons with disabilities in emergencies, he said that civil defence in Spain was organized both nationally and at the level of the Autonomous Communities. Specifically, Act No. 26/2011, of 1 August 2011, amended the law on civil defence and required that the characteristics of the social group formed by persons with disabilities should be taken into account. The Government had, since then, taken appropriate measures to apply the Act. Several royal decrees had therefore been issued on the inclusion of assistance protocols for persons with disabilities in basic civil defence rules and the action plan for nuclear threats and radiation hazards and on the organization of further training programmes focusing on safety and civil defence arrangements for persons with disabilities.

41. **Mr. Rojas Juárez** (Spain) said that the National Civil Protection School, which was attached to the Ministry of the Interior, organized specific courses for persons with disabilities focusing on prevention, as well as courses on the protection of persons with

disabilities for the military emergency response unit and all those workers, both professional and voluntary, who were involved in the national civil defence system and disaster relief. The school would work to publicize as widely as possible the Convention and the new standards established in Spain under article 11 of the Convention.

42. **Mr. Ganzenmüller** (Spain) said that the monitoring of guardianship arrangements was adequately safeguarded by the Code of Civil Procedure, with respect both to persons with disabilities whose legal capacity had been restricted and their assets. In the latter case, the guardian had to submit annual accounts to the judicial authority for approval; if necessary, additional information could be requested. In that connection, the Office of the Attorney-General had drafted a detailed directive on the monitoring and oversight of the guardianship arrangements of persons with disabilities for the public prosecution service (Instruction No. 4/2008). It had also adopted a handbook of good practice on the subject for public prosecution offices. Lastly, guardians were required to submit an inventory of the assets of the person with disabilities under their care when the guardianship arrangements were made, and to request judicial authorization for the sale of any real estate or personal property belonging to the person with disabilities.

43. **Ms. Martínez Lozano** (Spain), referring to the question on the right to live autonomously and independently, recalled that in 2007 a law had been adopted on the promotion of personal autonomy and care of persons in situations of dependency (Act No. 39/2006) and briefly reviewed its impact. In the space of four years, more than 10 billion Euros had been invested in social protection under the Act, despite the current trend in Europe of cutting public spending, and almost 730,000 people (mainly older persons, persons with disabilities and the sick) had benefited from measures provided for by the law. It had been necessary to design a complex set of regulations to the Act in order to ensure social cohesion nationwide, taking into account the decentralized organization of the country and the powers of the Autonomous Communities in social affairs. As the current focus was on services to promote personal autonomy, and the State was working with organizations of persons with disabilities to create residences and infrastructures and to develop such services. A White Paper on coordination in the social and health fields, to be presented in October 2011, contained interesting examples of best practices and models which could be reproduced by the Autonomous Communities that had not yet developed such practices.

44. **Mr. Martín** (Spain) described the mechanisms in support of the personal autonomy of persons with disabilities that had been adopted recently in the area of public health under Act No. 26/2011. The measures, which had led to the amendment of five health laws, were designed to guarantee and protect the wishes of patients with disabilities regarding health services. They included the requirement to provide support for the expression of informed patient consent and to provide information in accessible formats.

45. **Ms. Martínez Lozano** (Spain), replying to the question on penalties imposed on companies for failing to observe the 2 per cent quota of employees with disabilities, said that the Spanish authorities were fully aware that the regulation would not be respected without penalties. Nevertheless, it was also useful to promote the good practices of certain large companies, such as REPSOL or Carrefour, which set a good example for other organizations.

46. **Mr. Martín** (Spain) said that the delegation would at a later date provide figures on the penalties imposed on companies with more than 50 employees for failing to observe the 2 per cent quota of employees with disabilities. Act No. 26/2011 imposed new, heavier penalties for non-compliance with the requirement and the Government was determined to make further progress in that area by taking a number of measures, including regulatory action. For example, companies that had been given penalties would not be eligible for public funding. It should be noted, however, that the State did not exclude from public

procurement contracts those companies that failed to observe the 2 per cent quota because it was unable to do so under compulsory European Union public procurement directives. There were plans to include the quota in the criteria used for the final award of tenders. It should also be noted that the Ministry of Defence and the Ministry of Health, Social Policy and Equality endeavoured to promote that social clause in their contract award procedures.

47. **Ms. Jaraba** (Spain) said that in the national intervention protocol drawn up in 2008, the abuse of children with disabilities was classified as severe abuse, requiring specialized help. On the question of consulting children with disabilities, she also recalled that civil society played a particularly active role in developing public policies and that the Spanish Committee of Representatives of Persons with Disabilities (CERMI), which brought together most of the country's organizations of disabled persons, ensured that the interests of children with disabilities were protected.

48. **Mr. Palacios Blanco** (Spain) said that hospitalized children, whether they had disabilities or not, who could not go to school, attended the hospital school, while those who stayed at home were supported by either the administration responsible for education or, through an agreement or a grant, by a non-governmental organization.

49. **Ms. Martínez Lozano** (Spain) said that gender violence was a serious social problem which the authorities and Spanish society as a whole had decided to fight vigorously. In fact, the first law to enter into force under the current Government had been a law on gender violence. Prevention and social assistance measures for victims of gender violence had been strengthened in the case of women with disabilities in order to take into account the double discrimination they suffered. Similarly, all gender violence prevention and information campaigns were conducted using accessible formats and all shelters for battered women were designed and equipped to receive women with disabilities and had qualified female staff. Lastly, the Observatory on Violence against Women, which brought together representatives of the administration and civil society organizations, had set up a working group to study the issue of violence and disability and to propose social policy measures in that area. Various reports had been drafted on the situation of women with disabilities, including one on disabilities caused by gender violence.

50. **Mr. Alejandro** (Spain) added that the National Strategy for persons with disabilities (2010–2020), one aspect of which dealt specifically with the equality of vulnerable groups, was currently being adopted. The Strategy included an analysis of the situation of women and children with disabilities in Spain and proposed measures to combat the multiple discrimination affecting both social groups.

51. **Mr. Rojas Juárez** (Spain) said that the law laid down the requirement of absolute respect for the human dignity of detainees, and consequently respect for the physical integrity of persons with disabilities in detention centres, and prohibited ill-treatment. Specifically, three types of mechanism had been put in place to protect detainees with disabilities: training modules, mainly focusing on the Code of Ethics, human rights and mental health, that were compulsory for all prison officials; instructions and guidelines for directors of prison facilities on how to treat detainees with disabilities; and, lastly, an extremely severe disciplinary regime, under which any discriminatory behaviour or ill-treatment was punished by dismissal. Thanks to that range of robust disciplinary and training measures, virtually no cases of abuse had been recorded in the Spanish prison system. Mention should also be made of the fact that the Ministry of the Interior had developed an innovative system of assistance for detainees with disabilities, under which detainees who so wished could follow 300 hours of training and then work as health-care assistants with fellow disabled detainees, with their consent. In that way, the prison community helped to prevent any abuse or ill-treatment. The high levels of motivation and humanity of the approximately 25,000 officials working in Spanish prisons should also be

highlighted. The Ministry of the Interior was at the Committee's disposal if it wished to visit prison facilities or to receive more detailed information on their operation.

52. **Mr. Martínez-Lage Sobredo** (Spain) said that the Convention had the same status as any other international instrument ratified by Spain and that, under article 96 of the Constitution, it could not be amended unilaterally. That article provided that international treaties, once officially published, were part of the legal system and that their provisions could be repealed or amended only in accordance with the general rules of international law. The same applied to the interpretation of the provisions of the Convention, which, in accordance with article 10 of the Constitution, was undertaken in the light of the Universal Declaration of Human Rights and international treaties and agreements ratified by Spain.

53. **Mr. Ganzenmüller** (Spain) said that the Spanish Government acknowledged the challenges of implementing the Convention directly, as well as the need to draft a law establishing a procedure for the modification of legal capacity and providing for support mechanisms for persons with disabilities, in accordance with the Convention. In order to ensure that Spanish procedural law was in line with the Convention, the Office of the Attorney General had taken the matter to the Supreme Court, which, in its decision of 29 April 2009, had recalled that those procedures were aimed at protecting persons with disabilities. The Supreme Court considered that the modification of legal capacity should be a graduated process and that a support mechanism should be established based on the natural capacities of disabled persons. The terminology to be used in that area (guardianship, support or assistance) had not been established by the Supreme Court, because, according to the preamble to the Convention, that was a matter for the State party to decide.

54. While the Supreme Court had recognized that domestic law was in line with the Convention, it had highlighted the need to act solely in the interests of persons with disabilities in all procedures. The Supreme Court's decision had been taken into account in several provincial court rulings regarding guardianship. The Attorney General had proposed making guardianship the basic institution in Spain. Subsequently, the notion of guardianship had been replaced by the notion of support in many court judgements. Implementation of the Convention had been the subject of three instructions on the functions and responsibilities of guardians, on the assistance provided by the Attorney General to enable persons with disabilities and their families to attend proceedings and on persons with disabilities without protection. Lastly, a handbook of good practice had been distributed to all members of the legal profession in Spain and to associations with the aim of publicizing the Attorney General's commitment on those issues.

55. Civil society involvement was ensured at different levels, including within the framework of the Justice and Disability Forum, which aimed to provide training and raise awareness of disability issues among judges and other stakeholders in the judicial system. The Attorney General also cooperated with CERMI and organizations working to protect the rights of persons with disabilities. Documents prepared by the Attorney General on the application of the Convention were posted on a publicly available website.

56. **Mr. Al-Tarawneh** asked whether civil society organizations, associations of persons with disabilities and national human rights institutions had taken part in drafting the National Strategy for persons with disabilities (2012–2020) — and more generally policies, action plans and evaluation studies — and what results had been achieved; whether there was an action plan on accessibility under the strategy; whether the State party provided technologies that were accessible to persons with disabilities at little or no cost; whether national policies took account of universal design, in accordance with article 2 of the Convention; and lastly, whether there was a strategy aimed at monitoring and evaluating the implementation of the Convention as a whole and whose responsibility it was. He

welcomed the cooperation projects signed with Tunisia and hoped that similar projects would be introduced in partnership with other countries in the region.

57. **Ms. Maina** emphasized that the declaration of incapacity referred to in the report constituted a violation of article 12 of the Convention and that placing a disabled person under guardianship or any sort of care violated their right to live independently within the family or a community. Furthermore, it would appear that the definition of guardianship arose out of court rulings and that no mechanism or process had been introduced to obtain the consent of persons with disabilities to be placed under guardianship or concerning the choice of a guardian. Noting that there was no information available to indicate whether the homes or institutions in which persons with disabilities were placed were care centres for persons with disabilities, she asked what steps the Ministry of Justice was planning to take to recognize the legal capacity of persons with disabilities and to introduce mechanisms ensuring supported decision-making. She also wished to know what time frame had been set for prohibiting any practice contrary to article 12 of the Convention, such as the declaration of incapacity and substitute decision-making.

58. **Ms. Yang Jia** asked whether persons with disabilities had been involved in preparing policies on accessibility and communication and information technologies. While recognizing that considerable progress had already been achieved, particularly with respect to blind persons, she recommended that the State party should step up its efforts to improve the situation of persons with disabilities in its territory. In view of the positive results achieved by the State party in the area of air travel, she asked the delegation to provide further information on the State party's good practices in that area.

59. **Ms. Degener** drew attention to the recommendations made by the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, which advocated more effective measures to protect children and women with disabilities against violence. She enquired about existing programmes and services to ensure the sexual and reproductive health rights of men and women with disabilities both in the area of health care and in terms of public family support services and policies. She was concerned about the fact that forced sterilization was not a criminal offence or considered as a violation of the physical integrity of persons with disabilities. The delegation should also indicate what projects were planned to ensure the access of children with disabilities to the resources of the general education system, without discrimination or segregation of any kind based on disability.

60. **Mr. Gombos** asked what steps the Spanish Government was taking to protect Roma children and women with disabilities against all forms of discrimination; how many adults had been placed under guardianship in the State party; whether regulations existed regarding the use of restraints, electroconvulsive therapy, seclusion and psychosurgery as forms of treatment; and whether, in psychiatric centres, persons with disabilities were treated without their consent. The delegation should indicate whether there were national preventive and monitoring mechanisms responsible for protecting persons with disabilities in care centres and facilities from all forms of abuse.

*The meeting rose at 1 p.m.*