

# UN CRPD FOLLOW-UP FRAME IN SPAIN

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- Spain ratifies the text on December 3rd, 2007 and it comes into force on May 3rd, 2008
- UN CRPD offers an innovative system for its implementation and following on the national field.
- Art 33 defines a system integrated by:
  - One or more government organizations in charge of its implementation (33.1)
  - An integrated frame of one or more independent mechanisms that must provide, protect and oversee its implementation (33.2)

## ART. 33. NATIONAL IMPLEMENTATION AND MONITORING

1. The States part, in accordance with its organizational system, will designate one or more governmental organisms in charge of the questions relative to the application of the present Convention and will consider thoroughly the possibility of establishing or of designating a coordination mechanism to facilitate the measurements adoption on this matter in different sectors and at different levels.
2. The States part, in accordance with its juridical and administrative systems, will maintain, reinforce, designate or establish, at a national level, a FRAME that will consist of one or several independent mechanisms, TO PROMOTE, TO PROTECT AND TO SUPERVISE, the application of the present convention. When they designate or establish these mechanisms, the States Part will bear in mind the principles relative to the legal condition and the functioning of the national institutions of protection and promotion of the human rights.

## ART. 33. NATIONAL IMPLEMENTATION AND MONITORING

- 3. Civil society, specially persons with disability and the organizations that represent them, will be integrated and will participate fully in every level of the monitoring process.*

### System characteristics:

- It will have to be adapted to the organizational system of the State part.
- The State will have to bear in mind the functions to be carried out in the designation:
  - Application or implementation of the Convention
  - To supervise, to promote and to protect the application works.
- Voluntarily there can be designated a mechanism of coordination that facilitates the implementation in different sectors and levels.
- It is necessary to assure the participation of the associative movement of persons with disability, in the monitoring functions.
- The principles of Paris will be taken into account for the functioning rules

# IMPLEMENTATION AND MONITORING

- **Application and national monitoring (Art.33):**
  1. Governmental organizations:
    - Headquarters of Coordination of Sectorial Politics of the Disability of the Ministry of Health, Social policy and Equality.
    - Office of Human rights of the External Affairs and Cooperation Department.
    - Coordination method: NATIONAL DISABILITY COUNCIL.
  2. **Independent monitoring frame:**
    - Royal decree 1276/2011, september 16th
    - CERMI
    - Civil society participation, specially of organizations of people with disabilities
    - The ombudsman, national Institution for the Human rights

## Coordination mechanism

### ***NATIONAL DISABILITY COUNCIL –R.D. 1955/2009 DECEMBER 4TH***

Advisory organ of the Government integrated by 40 members

- Chaired by the Health, Social policy and equality minister
- 3 vice-presidents, one of them in representation of OPD.
- 16 representatives of different departments: (Ministry of Health and Social Policy and Equality, the Ministry of Economy and Finance, the Ministry of Interior, the Ministry for Public Works, the Ministry of Education, the Ministry of Industry, Tourism and Trade, the Ministry of the Presidency, the Ministry of Work and Immigration, the Ministry of the Environment, Rural and Marine Affairs and the Ministry for Regional Policy and Public Administration);
- 16 representatives of OPD;
- 4 independent experts
- It assumes the function to coordinate the politics and the cooperation between the different departments and the organizations of persons with disability.

- **Independence: private entity with economic independence ... resource allocation for the new functions ...**
- **Plural: more than 6.000 associations + Advisory Support Comité**
- **Institutional collaboration :**
  - **National disability Council**
  - **Juridical operators: Justice and Disability Forum, CGAE, notaries, etc.**
  - **Other organizations for the Human rights defender: the ombudsman**
  - **Civil society: human rights defense, for children, for the aged, etc.**



## FUNCTIONS ADOPTED BY CERMI

- To present opinions, recommendations and proposals in the legislative field: intervention in the legislative process.
- Reports and studies that encourage the protection and promotion of the human rights of the persons with disability: Annual reports and of impact in different fields.
- Diffusion and sensitization: [www.convenciondiscapacidad.es](http://www.convenciondiscapacidad.es)
- Formation and publication
- Protection and defense of rights:
- Training and orientation
- Mediation
- Strategic litigation
- Institutional coordination: public administrations, juridical operators, Ombudsman

- **International supervision: Creation of a Committee on the Rights of the Persons with Disability (art. 35):**
  - Evaluation reports of the States, recommendations and suggestions (art. 36) + Reports in the shade or of the INDH.
  - Every two years there will be information sent to the General Assembly of the UN and the Economic and Social Council, and there will be the possibility to do general suggestions and recommendations (art. 39).
- Additional Optional Protocol: voluntary. It allows people being victims of discrimination to present their personal complaints.

# FIRST SPANISH REPORT. ART 35 UN CRPD

- Sent may, 3rd, 2010. OACDH.
- CERMI presented an “Alternative report” on december, 2nd, 2010.
- It was submitted to examination of the Committee Experts' in the Sixth Meeting
- CERMI participated actively as an independent organization during the 6<sup>th</sup> meeting, explaining to the Comité this Alternative Report.
- The experts Commission on the Convention created the final conclusions during the sixth meeting in a document that has recommendations for the government regarding a better implementation of the Convention in Spain.
- This conclusions include the CERMI recommendations explained in their Alternative Report.
- The Comité has elogiated on its final conclusions the aplicacion of the art 33.2 in Spain

## The process...

- To complement the report of the State: presented after the government
- To continue the systematic way of presentation demanded from the country: for articles, numeration of paragraphs, limited extension
- To facilitate the comprehension: to translate them into English and Spanish
- To take part in the whole process: making questions, conclusions,
- Presentation of the report to the Committee: identification of punctual questions and of questions of special interest.
- To take part actively in the Dialogue meeting and in the writing of the conclusions.
- Not to create confusion and to give clear and simple messages: coordination with other entities ...

# Results

- Positive evaluation
- The remarks should be taken into account by the Government to improve the implementation of the UN CRPD.
- Elaborate a Report of valuation of the Remarks
- Strategic use for the associative movement
- Periodic monitoring

# Impact on the legislation

Adaptation of the juridical arranging:

- Art. 12. Aptitude to act
- Art. 10. Eugenesian Abortion
- Art. 13. Access to the justice: supports
- Art. 14. Involuntary internment
- Art. 17. Informed assent and not consented Sterilization.
- Art. 20. Right to mobility
- Art. 24 Right to education

# FIRST SPANISH REPORT art 35 UN CRPD

- Wide concept of the disability: It is important that the equal opportunity politics cover all the persons with disability in accordance with the Convention (certificate, adjustment and accessibility)
- Protection for discrimination: impulse and promotion of not judicial systems of protection like the arbitration (LIONDAU), and administrative system of sanctions and infractions: autonomic and local development and application.
- Bigger regional and local participation of the people with disability in the processes of design and execution of politics.
- Bigger participation of the children in the questions that affect them.
- Discrimination for disability in the laws: The State should eliminate the distinction, regarding the period in which it is allowed to abort, when this distinction is based on the existence of a disability.
- Protection of the discrimination for disability due to “error” or “perception”.
- Suitable disability perspective in the politics and programs against domestic violence.

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- Genre perspective in the politics for people with disability on employment, health and social protection, faced to encourage the personal autonomy and to assure the participation of women and girls.
- Attention for children with disability by the coordination of services and provisions of services in the social, sanitary and educational fields.
- Information and professionals' training, especially of the judiciary and other juridical operators, members of the government, officials ... of persons with disability and of the society in general.
- Accessibility: real commitment with the implementation of the laws and measurements of accessibility, especially at regional and local level. Allocation of financial and human resources,



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- Modification of the system of modification of the aptitude to act of the persons with disability, to happen from a replacement model to a supports model in the decision making.
- Review of the legislation that regulates the necessary internments because of disability.
- Penalization of not consented sterilization of people with disability.
- Ude of the resources to guarantee the autonomy of the persons with disability and their inclusion in the community. Not limitation of the resource of personal assistant.
- Right to vote of ALL the persons with disability: (modification of the Constitutional law 5/1985)
- Systematization of the data capture for sex, age and disability; development of indicators of genre.
- Next examination: not later than December 3, 2015.



COMITÉ ESPAÑOL  
DE REPRESENTANTES  
DE PERSONAS  
CON DISCAPACIDAD

**THANK YOU**

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**[www.convenciondiscapacidad.es](http://www.convenciondiscapacidad.es)**