



# **IDA's Compilation of CRPD Committee's Concluding Observations**

*Article 12 CRPD  
(Equal recognition before the law)*

**April 2024**

## Article 12 - Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

**AZERBAIJAN (2024)**  
**BAHRAIN (2024)**  
**COSTA RICA (2024)**  
**KAZAKHSTAN (2024)**  
**NICARAGUA (2024)**  
**SWEDEN (2024)**  
**ZAMBIA (2024)**  
**ANDORRA (2023)**  
**AUSTRIA (2023)**  
**GERMANY (2023)**  
**ISRAEL (2023)**  
**MALAWI (2023)**  
**MAURITANIA (2023)**  
**MONGOLIA (2023)**  
**PARAGUAY (2023)**  
**ANGOLA (2023)**  
**ARGENTINA (2023)**  
**GEORGIA (2023)**  
**PERU (2023)**  
**TOGO (2023)**  
**TUNISIA (2023)**  
**BANGLADESH (2022)**  
**CHINA (2022)**  
**MACAO**  
**INDONESIA (2022)**  
**JAPAN (2022)**  
**LAO PEOPLE'S DEMOCRATIC REPUBLIC (2022)**  
**NEW ZEALAND (2022)**

**REPUBLIC OF KOREA (2022)**

**SINGAPORE (2022)**

**HUNGARY (2022)**

**JAMAICA (2022)**

**MEXICO (2022)**

**SWITZERLAND (2022)**

**VENEZUELA (2022)**

**DJIBOUTI (2021)**

**FRANCE (2021)**

**ESTONIA (2021)**

**ALBANIA (2019)**

**AUSTRALIA (2019)**

**ECUADOR (2019)**

**EL SALVADOR (2019)**

**GREECE (2019)**

**INDIA (2019)**

**IRAQ (2019)**

**KUWAIT (2019)**

**MYANMAR (2019)**

**CUBA (2019)**

**NIGER (2019)**

**NORWAY (2019)**

**RWANDA (2019)**

**SAUDI ARABIA (2019)**

**SENEGAL (2019)**

**SPAIN (2019)**

**TÜRKIYE (2019)**

**VANUATU (2019)**

**ALGERIA (2018)**  
**BULGARIA (2018)**  
**PHILIPPINES (2018)**  
**POLAND (2018)**  
**MALTA (2018)**  
**SOUTH AFRICA (2018)**  
**NORTH MACEDONIA (2018)**  
**HAITI (2018)**  
**NEPAL (2018)**  
**OMAN (2018)**  
**RUSSIAN FEDERATION (2018)**  
**SEYCHELLES (2018)**  
**SLOVENIA (2018)**  
**SUDAN (2018)**  
**LATVIA (2017)**  
**LUXEMBOURG (2017)**  
**MONTENEGRO (2017)**  
**MOROCCO (2017)**  
**PANAMA (2017)**  
**UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (2017)**  
**ARMENIA (2017)**  
**BOSNIA AND HERZEGOVINA (2017)**  
**CANADA (2017)**  
**CYPRUS (2017)**  
**HONDURAS (2017)**  
**IRAN (ISLAMIC REPUBLIC OF) (2017)**  
**JORDAN (2017)**  
**REPUBLIC OF MOLDOVA (2017)**

**BOLIVIA (2016)**  
**COLOMBIA (2016)**  
**ETHIOPIA (2016)**  
**GUATEMALA (2016)**  
**UNITED ARAB EMIRATES (2016)**  
**URUGUAY (2016)**  
**CHILE (2016)**  
**LITHUANIA (2016)**  
**PORTUGAL (2016)**  
**SERBIA (2016)**  
**SLOVAKIA (2016)**  
**THAILAND (2016)**  
**UGANDA (2016)**  
**BRAZIL (2015)**  
**EUROPEAN UNION (2015)**  
**GABON (2015)**  
**KENYA (2015)**  
**MAURITIUS (2015)**  
**QATAR (2015)**  
**UKRAINE (2015)**  
**COOK ISLANDS (2015)**  
**CROATIA (2015)**  
**CZECH REPUBLIC (2015)**  
**DOMINICAN REPUBLIC (2015)**  
**GERMANY (2015)**  
**MONGOLIA (2015)**  
**TURKMENISTAN (2015)**  
**NEW ZEALAND (2014)**

**DENMARK (2014)**  
**REPUBLIC OF KOREA (2014)**  
**BELGIUM (2014)**  
**ECUADOR (2014)**  
**MEXICO (2014)**  
**SWEDEN (2014)**  
**AZERBAIJAN (2014)**  
**COSTA RICA (2014)**  
**AUSTRALIA (2013)**  
**AUSTRIA (2013)**  
**EL SALVADOR (2013)**  
**PARAGUAY (2013)**  
**ARGENTINA (2012)**  
**CHINA (2012)**  
**HUNGARY (2012)**  
**PERU (2012)**  
**SPAIN (2011)**  
**TUNISIA (2010)**

## Azerbaijan (2024)

27. The Committee observes with concern:

(a) Provisions in the State party's Civil Code authorizing deprivation of legal capacity and guardianship on the basis of impairment (arts. 28. 8 and 33.4), affecting in particular persons with intellectual and/or psychosocial disabilities and at least 828 decisions of guardianship taken by courts in 2023;

(b) The prevalence of substitute decision-making through measures purported to provide persons with disabilities with support, such as patronage (art. 39 of the Civil Code) and in the "Guidelines on the Regulations of Notary Actions in the Republic of Azerbaijan" (section 22);

(c) The absence of measures to ensure the right of persons with disabilities to own or inherit property, control their own financial affairs, access bank loans and mortgages.

**28. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee reiterates its previous Concluding Observations (CRPD/C/AZE/CO/1, para. 27) and it recommends that the State party:**

**(a) Recognize the full legal capacity of persons with disabilities on an equal basis with others, review with the aim to repeal provisions in the Civil Code and regulations that authorize restriction of legal capacity of persons with intellectual and/or psychosocial disabilities and introduce a mechanism to restore legal capacity for persons with disabilities under guardianship and provide information in accessible formats about restoration of legal capacity;**

**(b) Introduce legislation, in close consultation and with the active involvement of persons with disabilities through their representative organizations, providing supported decision-making that recognizes the autonomy, will and preference of persons with disabilities, ensures that informal and formal support arrangements are available, accessible and includes advance planning for support and decision-making and the right to refuse/modify a support relationship;**

**(c) Ensure the rights of persons with disability to own or inherit property, to control their own financial affairs and banking procedures to have equal access to bank loans, mortgages and other forms of financial credit and banking procedures, in both the public and private sectors, and the right not to be arbitrarily deprived of their property.**

## Bahrain (2024)<sup>1</sup>

24. The Committee is concerned about:

(a) The diminution of the legal capacity of persons with disabilities, in particular persons with psychosocial disabilities and persons with intellectual disabilities, in accordance with articles 77, 78, 79 and 80 of the Civil Code No. 19 of 2001, which consider any act by a person with an intellectual disability or a person with a psychosocial disability to be voidable with the possibility of requesting the person to be placed under restraint.

(b) The absence of any mechanism to provide support for the exercise of legal capacity and decision-making for persons with intellectual disabilities and persons with psychosocial disabilities.

**25. Recalling its general comment No. 1 (2014), the Committee recommends that the State party:**

**(a) Repeal provisions in national laws, in particular the Civil Code and the Family Code, that deny persons with psychosocial disabilities and persons with intellectual disabilities the right to exercise their legal capacity**

**(b) Eliminate all forms of proxy decision-making, including guardianship, and replace them with an effective mechanism to support decision-making in accordance with the provisions and principles of the Convention, in close consultation and with the active participation of persons with disabilities and their organisations.**

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<sup>1</sup> When compiling the recommendations, the Concluding Observations were only available in Arabic. This document includes an automated translation to English by [DeepL](#).



## Costa Rica (2024)

21. El Comité toma nota de las aclaraciones proporcionadas por el Estado parte al concluir el diálogo constructivo. Sin embargo, le preocupa:

a) La aprobación, en 2023, de la Ley N. 10412, Ley Nacional de Salud Mental, que ha retomado la figura de la “persona garante” en los procesos de atención psicosocial, con una redacción que podría acercar esta figura a la de la curatela, abolida por la Ley de Promoción de la Autonomía Personal de las Personas con Discapacidad (Ley N. 9379);

b) La falta de medidas concretas para eliminar la figura de interdicción de la Constitución y en legislación del Estado parte, en particular el Código Civil, y la derogación del artículo 5 de la Ley N. 9379 para la Promoción de la Autonomía Personal para las Personas con Discapacidad, que reconoce la capacidad jurídica a las personas en situación de discapacidad, mediante la aprobación de la Ley No. 9747, el Código Procesal de Familia, en 2019;

c) Que no se cuente con información sobre el número de personas con discapacidad, en particular de personas con discapacidad psicosocial y/o intelectual, sujetas a los regímenes de capacidad restringida, incluida la incapacitación y curatela, así como de la limitada información del número de sentencias judiciales que se encuentran en la actualidad para restaurar su capacidad jurídica.

**22. Recordando su observación general núm. 1 (2014), relativa al igual reconocimiento como persona ante la ley, el Comité recomienda que el Estado parte:**

**a) Garantice que la figura de la persona garante no se utilice fuera de los parámetros de establecidos en la Convención, y que exista un mecanismo de control periódico de las funciones de los garantes, así como que se cuente con información sobre el proceso que permita a las personas con discapacidades a renunciar voluntariamente a su garante o nombrar un sustituto, asegurando a las personas con diferentes discapacidades el pleno ejercicio de su capacidad jurídica;**

**b) Armonizar, a la brevedad posible, la Constitución, el Código Civil y el Código Procesal de Familia con la Convención para garantizar el igual reconocimiento como persona ante la ley de todas las personas con discapacidad, incluso las personas con discapacidad intelectual y/o psicosocial, eliminando entre otros aspectos, las disposiciones que permiten la restricción de su capacidad jurídica, como las figuras de la incapacitación y la curatela, así como garantizar medidas adecuadas de apoyo, en estrecha consulta y con la participación activa de las organizaciones de personas con discapacidad;**

**c) Recolectar datos desagregados sobre el número de personas con discapacidad, en particular las personas con discapacidad psicosocial y/o intelectual, sujetas a los regímenes de capacidad restringida, así como del número de sentencias judiciales con las que se cuentan en la actualidad para restaurar su capacidad jurídica.**

## Kazakhstan (2024)

27. The Committee notes with concern:

(a) Legislation in the State party, including article 26 of the Civil Code, restricting legal capacity of persons with disabilities on the basis of impairment, in particular of persons with intellectual and/or psychosocial disabilities, and that persons with disabilities are subjected to guardianship and thereby deprived of political and civil rights, including their rights to vote, to marry, to found a family, and to manage assets and property;

(b) The absence of mechanisms for supported decision-making for persons with disabilities;

(c) Legal restrictions for persons with disabilities under guardianship to request reviews of judicial decisions concerning their guardianship and to regain legal capacity.

**28. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Initiate a comprehensive legislative reform aimed at recognizing legal capacity of all persons with disabilities and abolishing guardianship enshrined in the Civil Code, and**

replace them with supported decision-making measures that guarantee the autonomy, will and preference of persons with disabilities;

(b) Raise awareness in all quarters of society and the State, including among persons with disabilities, their families and community members, the legislature, government and administration, and the judiciary, on supported decision-making and legal capacity of persons with disabilities, in close consultation and with the active involvement of persons with disabilities through their representative organizations;

(c) Until the formal establishment of supported decision-making, systematically review guardianship appointments, provide legal support and advice for persons with disabilities on how to regain their legal capacity, and ensure that persons with disabilities have the right to choose a support person in decision-making processes.

### Nicaragua (2024)

22. El Comité nota que en la Ley de los Derechos de las Personas con Discapacidad (Ley 763) se consigna la plena capacidad jurídica de las personas con discapacidad, sin embargo, le preocupa que:

a) El Código Civil utiliza términos peyorativos hacia las personas con discapacidad intelectual o psicosocial y contiene artículos que limitan el goce y ejercicio de la capacidad jurídica de dichas personas, así como de las personas con discapacidad visual y auditiva contando con capítulos sobre la “guarda de los dementes” (cap. VII) y sobre la “guarda de los sordomudos y ciegos” (cap. VIII);

b) El Código de Familia señala, en sus artículos 22 al 31, que cuentan con capacidad jurídica las personas “no declaradas incapaces” y que tienen limitada esta capacidad personas que “padecen de alguna enfermedad mental, que no los priva totalmente de discernimiento” y “las personas que por impedimento físico no puedan expresar su voluntad de modo inequívoco, sin que hayan sido declarados incapaces” y actuarán “por medio de representación legal, derivada de la autoridad parental, nacida de la designación de tutela” ;

c) No existe información sobre el número de personas sujetas a los regímenes de capacidad restringida, incluyendo la incapacitación y curatela.

**23. Recordando su observación general núm. 1 (2014), relativa al igual reconocimiento como persona ante la ley, el Comité urge al Estado parte a:**

a) Armonizar el Código Civil de la Nación con la Convención para eliminar los términos peyorativos hacia las personas con discapacidad, particularmente hacia personas con discapacidad psicosocial y/o intelectual, garantizar el igual reconocimiento como persona ante la ley de todas las personas con discapacidad, incluyendo la eliminación de las disposiciones que permiten la restricción de su capacidad jurídica, así como las figuras de la incapacitación y la curatela;

b) Armonizar el Código de Familia con la Ley de los Derechos de las Personas con Discapacidad (Ley 763) y los artículos 12, 13, 19 y 23 de la Convención para reconocer la plena capacidad jurídica de las personas con discapacidad;

c) Recolectar, de manera constante, datos desagregados sobre el número de personas sujetas a los regímenes de capacidad restringida, y revisar las sentencias judiciales para restaurar su capacidad jurídica;

d) Implementar mecanismos de distinto tipo para la toma de decisiones con apoyo y salvaguardias que respeten la autonomía, la voluntad y las preferencias de todas las personas con discapacidad, independientemente del nivel de apoyo que puedan solicitar, facilitar el apoyo entre grupos de pares, y proveer mecanismos accesibles de denuncia.

### Sweden (2024)

27. The Committee is concerned about:

(a) The lack of measures taken to replace substitute decision-making regimes with supported decision-making mechanisms;

- (b) The limited support measures for persons with disabilities to exercise their legal capacity on an equal basis with others;
- (c) The lack of nationally consistent application and unequal access across municipalities to the support provided by the 'Personligt Ombud' programme;
- (d) Insufficient training on supported decision-making and its application, in particular within the judicial system.

**28. Recalling its general comment No. 1 (2014), Equal recognition before the law, and in close consultation and active involvement of persons with disabilities through their representative organisations, the Committee recommends that the State party:**

- (a) Eliminate all forms of substitute decision-making and replace them with a system of supported decision-making that respects the will, preference and autonomy of persons with disabilities;**
- (b) Develop a national comprehensive strategy for the implementation of supported decision-making mechanisms with appropriate and proportionate safeguards across all levels of national, regional and municipal governments;**
- (c) Review the 'Personligt Ombud' programme to consider its application to all persons with disabilities and to ensure national coordination and consistency across municipalities;**
- (d) Develop and provide training programmes on supported decision-making across government agencies and other relevant sectors, including justice, health, banking and finance and social services.**

### [Zambia \(2024\)](#)

23. The Committee notes with concern the discriminatory provisions of the Mental Health Act No.6 (2019) which deprives persons with intellectual and/or psychosocial disabilities of their legal capacity, as well as the absence of supported decision-making mechanisms for persons with disabilities to exercise their legal capacity on an equal basis with others.

**24. The Committee recommends that in line with its general comment No. 1 (2014) on equal recognition before the law, the State party:**

- (a) Review the national legislation, in particular Section 4 (2) of the Mental Health Act No. 6 of 2019, to guarantee the right of all persons with disabilities, particularly for persons with intellectual and/or psychosocial disabilities, to equal recognition before the law and replace substitute decision-making systems, including guardianship, with supported decision-making systems, which ensures the provision of individualized support and respects the autonomy, will and preferences of persons with disabilities;**
- (b) Develop awareness-raising campaigns and capacity-building programmes, in consultations and active involvement of persons with disabilities through their representative organizations, for all stakeholders, including the families of persons with disabilities, community members, health professionals, public officials, the media, the judiciary and members of the Parliament on the recognition of the legal capacity of persons with disabilities and supported decision-making;**
- (c) Ensure the effective, independent participation of persons with disabilities through their representative organizations in the reform process and in the training of the relevant personnel on the recognition of the legal capacity of persons with disabilities and on the mechanisms of supported decision-making;**
- (d) Organize and fund the development of information about what supported decision making is, in accessible formats such as Braille, sign language and Easy Read and distribute to persons with disabilities and their families.**

### [Andorra \(2023\)](#)

25. The Committee acknowledges that Act 30/2022, Qualified Act on the Person and the Family, recognizes the legal capacity of persons with disabilities and the obligation to offer a system of support and abolish the institution of guardianship and extended or rehabilitated parental authority. However, it observes with concern:

- (a) Legal provisions, including articles 53 and 56 of the Act 30/2022, providing that “curatorship” must be established for persons with disabilities “who require this kind of support to exercise their legal capacity” and allow its establishment through judicial authority;
- (b) The limited implementation of supported decision-making mechanisms to exercise their legal capacity on an equal basis with others;
- (c) The absence of information on the number of persons with disabilities under guardianship and on the review of court rulings to restore their legal capacity.

**26. The Committee, recalling its general comment No. 1 (2014) on equal recognition before the law, recommends that the State party:**

- (a) Review national legislation, including articles 53 and 56 of Act 30/2022, to guarantee the right of all persons with disabilities, particularly persons with intellectual and/or psychosocial disabilities, to equal recognition before the law, and abolish provisions allowing restrictions of their legal capacity on the basis of impairment;**
- (b) Develop and implement a range of innovative supported decision-making systems that ensure the provision of individualized support in all aspects of life, tailored to all types of impairment, and respect the autonomy, will and preferences of persons with disabilities;**
- (c) Collect disaggregated data on the number of persons with disabilities under guardianship and regularly review court rulings to restore their legal capacity.**

### [Austria \(2023\)](#)

29. The Committee notes the enactment of the 2<sup>nd</sup> Protection of Adults Act of 2018, and the close consultation with and active involvement of organizations of persons with disabilities in its development, but it is concerned about the significant remaining elements of substituted decision-making and the high number of established legal adult representations and court-appointed representations, about the lack of progress made in the implementation of the law, particularly the lack of community-based services for supported decision-making provided by the Länder, and the lack of awareness about the law in many parts of the State and society.

**30. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party repeal the remaining elements of substituted decision-making in its laws, substantially strengthen community-based services for supported decision-making, particularly those within the competencies of the Länder, and implement them comprehensively, and train the employees of all public and private entities who have a role in implementing the law. The Committee also recommends the State party regularly evaluate the implementation of the 2<sup>nd</sup> Protection of Adults Act, with a strong emphasis on the measures taken by the Länder.**

### [Germany \(2023\)](#)

25. The Committee is concerned that:

- (a) The Act on Reform of Child and Adult Guardianship Law 2021 does not eliminate all forms of substitute decision-making;
- (b) There is no national comprehensive strategy for the implementation of supported decision-making mechanisms.

**26. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

- (a) Eliminate all forms of substitute decision-making and replace it with a system of supported decision-making;**
- (b) Develop a national comprehensive strategy, in close consultation with and active involvement of persons with disabilities through their representative organisations across all levels of Federal, Länder and municipal governments for the implementation of supported decision-making mechanisms.**

### [Israel \(2023\)](#)

27. The Committee notes with concern:

(a)The extensive application of substitute decision-making mechanisms, in particular that legal capacity can be removed for persons with intellectual disabilities and persons with psychosocial disabilities often on a permanent basis, and the large number of guardianship orders for property and personal affairs (70,843 in 2022);

(b)That supporters are appointed by courts on the basis of the “best interests” principle and that there is a low number of supporters of decision-making being appointed (1,500 as of May 2023);

(c)The limited number of reviews of guardianship decisions and that current reviews do not encompass guardianships established before the reform to the Legal Capacity and Guardianship Law in 2016.

**28. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party in close consultation and active involvement of representative organizations of persons with disabilities:**

**(a) Review and/or repeal laws and associated policies that have the purpose or effect of denying or diminishing the recognition of any person with disabilities as person before the law;**

**(b) Develop and implement a national supported decision-making framework that respects individual choices, will and preference of persons with disabilities;**

**(c) Establish a mechanism for the regular review of guardianship appointments, including those decided previous to the adoption of the Amendment No. 18 to the Legal Capacity and Guardianship Law 2016;**

**(d) Raise awareness about supported decision-making among persons with disabilities, their relatives, the judiciary, the Police, and legal profession, social workers, media and the community.**

### Malawi (2023)

25. The Committee is concerned about the deprivation of legal capacity of persons with intellectual disabilities and persons with psychosocial disabilities, including in the sphere of political participation, property rights, marriage and family relations and the right to free and informed consent, in the absence of measures of supported decision-making. It also notes that prevailing stereotypes in society lead to instances of *de facto* guardianship of persons with disabilities.

**26. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Amend or repeal legislation that denies legal capacity on the basis of disability, recognise the right of persons with disabilities to equal recognition before the law and establish a system of supported decision-making measures that respects persons autonomy, will and preferences. The State party should adopt measures to combat both formal and informal substitute decision-making;**

**(b) Recognize a broad range of formal and informal support mechanisms, including advance planning for support and decision-making;**

**(c) Collect disaggregated data on persons with disabilities being restricted of legal capacity and set up mechanisms to restore legal capacity;**

**(d) Develop awareness raising programmes targeting persons with disabilities, notaries, judges and court staff, health care providers, financial service providers and other actors involved in the exercise of legal capacity (supporters, family members and communities) about the right to legal capacity of persons with disabilities and the right to request support for decision-making.**

### Mauritania (2023)

23. The Committee is concerned about:



(a)The lack of measures to replace substitute decision-making systems with supported decision-making systems that respect the autonomy, rights, will and preferences of persons with disabilities in all areas of life;

(b)The provisions of the Civil Code and Personal Status Code provisions constitute violation and deprivation of enjoyment and exercise for the legal capacity on basis of disability, as well at the lack of legislation and other policy measures to ensure that persons with disabilities, particularly persons with psychosocial and/or intellectual disabilities, enjoy their legal capacity on an equal basis with others, including their capacity to enter into contracts, open bank accounts and take out bank loans and mortgages, and marry a partner of their choice;

(c)The lack of data on persons with disabilities still under guardianship, disaggregated by age, sex and type of disability.

**24. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Repeal all legislation that allows for restricted legal capacity and substituted decision-making, and adopt legislation to ensure supported decision-making;**

**(b) Develop awareness-raising campaigns, in consultation with and active involvement of persons with disabilities through their representative organizations, for all stakeholders, including the families of persons with disabilities, community members, civil servants, judges, health professionals and social workers, on the recognition of the legal capacity of persons with disabilities and supported decision-making;**

**(c) Adopt measures to collect data on persons still under guardianship, disaggregated by age, sex and type of impairment, with a view to restoring the full legal capacity of all persons with disabilities.**

### [Mongolia \(2023\)](#)

25. The Committee remains concerned about the lack of progress made to abolish the guardianship and substituted decision-making regime under the Civil Code, limiting the legal capacity of persons with disabilities on the basis of psychosocial and/or intellectual disabilities, and at the lack of a timeframe to completely replace this system with supported decision-making system. The Committee is also concerned about the lack of information about supported decision-making in accessible formats to increase understanding for persons with disabilities and their families.

**26. The Committee reiterates its previous recommendation (CRPD/C/MNG/CO/1, para. 21) and recommends that in line with its general comment No. 1 (2014) on equal recognition before the law, the State party:**

**(a) Repeal all discriminatory legal provisions on substitute decision-making systems, including guardianships and wardships, with supported decision-making systems, which ensures the provision of individualized support and respects the autonomy, will and preferences of persons with disabilities;**

**(b) Ensure the effective, independent participation of persons with disabilities through their representative organizations in the reform process and in the training of the relevant personnel on the recognition of the legal capacity of persons with disabilities and on the mechanisms of supported decision-making system;**

**(c) Organize and fund the development of information about what supported decision making is, in accessible formats such as Braille, sign language and Easy Read and distribute to persons with disabilities and their families.**

### [Paraguay \(2023\)](#)

23. Al Comité le preocupa que, pese a encontrarse dentro del Eje/Área 7 del Plan de Acción Nacional por los Derechos de Personas con Discapacidad:

a) No se han realizado acciones concretas para armonizar el Código Civil y otras normativas para eliminar los regímenes de sustitución de decisiones y para que se reconozca el derecho de las personas con discapacidad a la plena igualdad ante la ley;

b) No se cuente con información sobre el número de personas sujetas a los regímenes de capacidad restringida, incluyendo la incapacitación y curatela, y la limitada revisión de las sentencias judiciales para restaurar su capacidad jurídica.

**24. Recordando sus anteriores observaciones finales (CRPD/C/PRY/CO/1, párrafo 30), su observación general núm. 1 (2014), relativa al igual reconocimiento ante la ley, el Comité urge al Estado parte:**

**a) Armonizar, a la brevedad posible, el Código Civil con la Convención para garantizar el igual reconocimiento como persona ante la ley de todas las personas con discapacidad, incluyendo la eliminación de las disposiciones que permiten la restricción de su capacidad jurídica, incluyendo las figuras de la incapacitación y la curatela, así como garantizar medidas adecuadas de apoyo, en estrecha consulta y con la participación activa de personas con discapacidad y las organizaciones que las representan;**

**b) Recolectar datos desagregados sobre el número de personas sujetas a los regímenes de capacidad restringida y revisar de manera regular las sentencias judiciales para restaurar su capacidad jurídica.**

### Angola (2023)

19. The Committee is concerned that substituted decision-making is still permitted in property management, financial management, contract management and health, amongst other areas, limiting the capacity to act of persons with disabilities on the basis of their psychosocial and/or intellectual disability.

**20. The Committee recommends that the State party take necessary measures to ensure that its domestic legislation guarantees the right of all persons with disabilities, including persons with psychosocial and/or intellectual disabilities, to equal recognition before the law, and that it establish supported decision-making mechanisms in all areas of life.**

### Argentina (2023)

25. Al Comité le preocupa:

a) Que, pese a los avances, el Código Civil y Comercial de la Nación, adoptado por la Ley 26.994 (2014), mantiene la posibilidad de restringir el ejercicio de la capacidad jurídica, en particular de personas que “padecen una adicción o una alteración mental permanente o prolongada”, y las figuras de la incapacitación y la curatela (artículos 31 - 42);

b) La ausencia de información sobre el número de personas sujetas a los regímenes de capacidad restringida, incluyendo la incapacitación y curatela, y la limitada revisión de las sentencias judiciales para restaurar su capacidad jurídica;

c) Que en contradicción con el modelo de derechos humanos, la designación judicial de apoyos implique la restricción de la capacidad jurídica y que, en ese marco, sólo se considere a las Curadorías Oficiales como posible proveedor de apoyos;

d) El uso del criterio de beneficio de la persona en el proceso judicial de determinación de capacidad jurídica, así como la falta de salvaguardias y de mecanismos accesibles de denuncia.

**26. Recordando su observación general núm. 1 (2014), relativa al igual reconocimiento como persona ante la ley, el Comité urge al Estado parte:**

**a) Armonizar el Código Civil y Comercial de la Nación con la Convención para garantizar el igual reconocimiento como persona ante la ley de todas las personas con discapacidad, incluyendo la eliminación de las disposiciones que permiten la restricción de su capacidad jurídica, así como las figuras de la incapacitación y la curatela;**

**b) Recolectar datos desagregados sobre el número de personas sujetas a los regímenes de capacidad restringida, y revisar las sentencias judiciales para restaurar su capacidad jurídica;**

**c) Implementar mecanismos de apoyo de distinto tipo para la adopción de decisiones, y salvaguardias que respeten la autonomía, la voluntad y las preferencias de todas las personas con discapacidad, independientemente del nivel o el modo de apoyo que puedan**

**solicitar, facilitar el apoyo entre grupos de pares, y proveer mecanismos accesibles de denuncia.**

### Georgia (2023)

25. The Committee is concerned about:

(a) Legislation and practices that continue to deny legal capacity to persons with intellectual disabilities and persons with psychosocial disabilities who are considered to have “antisocial personality disorder”, coma patients, and persons with advanced Alzheimer's, and legislation limiting the exercise of legal capacity of persons with disabilities, including in the area of family life, parental rights, the right to work, and the right to participate in political and public life;

(b) Insufficient progress in ensuring that persons with intellectual disabilities and persons with psychosocial disabilities living in institutions regain their legal capacity;

(c) The fact that appointment of support personnel still relies solely on the medical assessment and evidence provided by the Forensic Bureau, the delay in implementing a range of supported-decision mechanisms, and the limited awareness in government and society about the right of persons with disabilities to equal recognition before the law and supported decision-making;

(d) The limited scope of mechanisms to address conflicts of interest between persons with disabilities on the one side and social workers and family members appointed as support persons on the other side.

**26. The Committee, recalling its general comment No. 1 (2014) on equal recognition before the law, and with reference to the assessment of the legal capacity reform conducted by the Public Defender of Georgia, in 2022, recommends that the State party:**

**(a) Repeal all provisions allowing substitute decision-making in any situation, and end situations of de facto guardianship as, inter alia, with respect to many persons with disabilities classified as “support recipients”;**

**(b) Ensure that supported decision-making is provided on the basis of the will and preferences of the person concerned, that persons with disabilities have the right to accept or refuse support and participate themselves with appropriate information in accessible formats, in all procedures concerning the appointment of support persons. The State party is recommended to introduce a range of supported decision-making alternatives tailored to any type of impairment;**

**(c) Introduce safeguards to prevent and address conflicts of interest between persons with disabilities and support personnel and ensure that the right of persons with disabilities to choose and access support prevails;**

**(d) Prioritize and establish accessible and expeditious mechanisms to ensure that persons with intellectual disabilities and persons with psychosocial disabilities in institutions regain their legal capacity and have access to genuine support measures compatible with the Convention.**

### Peru (2023)

24. Al Comité le preocupa la escasa aplicación del Decreto Legislativo N° 1384, Decreto Legislativo que reconoce y regula la capacidad jurídica de las personas con discapacidad en igualdad de condiciones con las demás. El Comité observa con preocupación que:

a) No se ha realizado la estrategia de implementación del sistema de apoyos y salvaguardas y siguen existiendo restricciones y denegación de la capacidad jurídica, incluida la toma de decisiones por sustitución informal;

b) Que no se hayan revocado las sentencias de interdicción a personas con discapacidad dictadas antes de la reforma;

c) No ha habido medidas de sensibilización ni de difusión de información sobre la reforma y las implicaciones en todos los sectores, ni de comunicación a las personas con discapacidad afectadas por la reforma;



- d) Los jueces y notarios no están familiarizados con el cambio de paradigma de la toma de decisiones sustitutiva a la toma de decisiones con apoyo;
- e) No se han realizado inversiones suficientes, incluso a los equipos multidisciplinarios que apoyan al sector justicia, para promover las opciones de toma de decisiones con apoyo;
- f) El artículo 172 del Código Penal sancione la agresión sexual cuando las víctimas no puedan dar su consentimiento. Dentro de la categoría de impedidos para consentir se incluye a las personas con “anomalías psíquicas” o “retardo mental”, esta disposición no está en consonancia con la reforma de la capacidad jurídica, que reconoce el derecho de las personas con discapacidad a tomar decisiones, incluidas las relacionadas con los derechos sexuales y reproductivos.

**25. El Comité recomienda al Estado parte que:**

- a) **Elabore, apruebe y aplique de forma adecuada, y mediante un proceso de consulta, la estrategia de implementación del sistema de apoyo y salvaguardias, incluso mediante la financiación de redes y servicios de apoyo impulsados por la comunidad;**
- b) **Restablezca rápidamente la capacidad jurídica de las personas que actualmente permanecen bajo tutela;**
- c) **Garantice campañas públicas, la difusión de información y la capacitación de jueces, notarios, funcionarios públicos, el sector privado, las personas con discapacidad, sus familias y las comunidades sobre el Decreto Legislativo N° 1384;**
- d) **Supervise, a través del Ministerio de Justicia y Derechos Humanos (MINJUS), la aplicación del Decreto Legislativo N° 1384 en el ámbito notarial, y establecer mecanismos de denuncia en los casos en que los notarios se nieguen a atender casos que involucren a personas con discapacidad;**
- e) **Fortalezca las capacidades de los equipos multidisciplinarios que apoyan al sector justicia para evaluar y determinar los requerimientos de apoyo, la voluntad y preferencias de los usuarios, incluso por medio de alternativas de comunicación accesible con las personas con discapacidad;**
- f) **Reforme el artículo 172 del Código Penal para garantizar los derechos sexuales y reproductivos de las personas con discapacidad en igualdad de condiciones con las demás, incluido el derecho a consentir relaciones sexuales.**

**Togo (2023)**

**25. The Committee notes with concern:**

- (a) That article 6 of Act No. 2004-005 deprives persons with disabilities, particularly persons with intellectual and/or psychosocial disabilities, of their legal capacity and placed under guardianship;
- (b) At the absence of supported decision-making mechanisms for persons with disabilities to exercise their legal capacity on an equal basis with others.

**26. The Committee recommends that in line with its general comment No. 1 (2014) on equal recognition before the law, the State party:**

- (a) **Repeal article 6 of Act No. 2004-005 and review the national legislation to guarantee the right of all persons with disabilities, particularly for persons with intellectual and/or psychosocial disabilities, to equal recognition before the law and replace substitute decision-making systems, including guardianship, with supported decision-making systems, which ensures the provision of individualized support and respects the autonomy, will and preferences of persons with disabilities;**
- (b) **Develop awareness-raising campaigns and capacity-building programmes, in consultations with and active involvement of organizations of persons with disabilities, for all stakeholders, including the families of persons with disabilities, community members, public officials, the media, the judiciary and members of the Parliament on the recognition of the legal capacity of persons with disabilities and supported decision-making;**
- (c) **Ensure the effective, independent participation of persons with disabilities through their representative organizations in the reform process and in the training of the relevant**

personnel on the recognition of the legal capacity of persons with disabilities and on the mechanisms of supported decision-making;  
(d) Organize and fund the development of information about what supported decision making is, in accessible formats such as Braille, sign language and Easy Read and distribute to persons with disabilities and their families.

### Tunisia (2023)

19. The Committee is concerned that the State party continues to uphold guardianship and substituted decision making for persons with disabilities, including persons with intellectual disabilities and persons with psychosocial disabilities, contrary to the Convention which recommends supported decision making. It is further concerned that the State party continues to uphold Law No. 66-2008 of 3 November 2008, on the facilitation of transactions for persons with motor disabilities, which allow financial institutions such as banks to limit the access of persons with disabilities including deaf persons and blind persons to their own finances when they are not accompanied by a witness in which case, if they go to the bank counter alone, they are denied the right to withdraw their own money. In some reported cases, the bank even requires that the witness be designated by a court decision.

20. **The Committee, recalling its General Comment No. 1 (2014) on Legal Capacity recommends:**

(a) **Review all laws, including article 106 of the Code of Obligations and Contracts and articles 160, 162 and 163 of the Personal Status Code, that uphold guardianship and substituted decision making and replace such provisions with ones that uphold supported decision making and individual autonomy in accordance with the Convention;**

(b) **Repeal the Law No. 66 and replace it with a law that establishes the principles of autonomy, privacy and independence of persons with disabilities in their administrative and financial transactions.**

### Bangladesh (2022)

25. The Committee is concerned that the Contract Act 1872, the Transfer of Property Act, 1882 and the Hindu Inheritance (Removal of Disabilities) Act of 1928, deny legal capacity to persons with disabilities, particularly persons with intellectual disabilities, women with disabilities and persons belonging to religious and/or ethnic minority groups to enter into a contract or inherit property, and provide for a substituted decision-making regime.

26. **The Committee recommends that in line with its general comment No. 1 (2014), the State party:**

(a) **Repeal the Contract Act of 1872, the Transfer of Property Act of 1882, the Hindu Inheritance (Removal of Disabilities) Act of 1928 and all other laws and policies which deny persons with disabilities, particularly persons with intellectual disabilities, women with disabilities and persons belonging to religious and ethnic minority groups, to enter into a contract or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit;**

(b) **Introduce supported decision-making mechanisms which appropriately respect the autonomy, will and preferences of persons with disabilities.**

### China (2022)

28. The Committee is concerned about the persistence of the substitute decision-making regime, enabled by the absence of measures to abolish the discriminatory provisions of the Civil Law (2017) (articles 21-24 and 28-31) allowing adults to be denied or restricted in their legal capacity to act based on "incapability of discerning his or her conduct".

29. **The Committee recommends that the State party, in line with article 12 of the Convention and the Committee's General Comment No. 1 (2014):**

- (a) Recognize the discriminatory nature of the substitute-decision making regime and abolish all provisions allowing restrictions of the legal capacity of persons with disabilities on the basis of impairment;**
- (b) Adopt a mechanism to restore full legal capacity of all persons with disabilities, regardless of their impairment;**
- (c) Develop and implement, in close consultation and active involvement of persons with disabilities and their representative organisations, a nationally consistent supported decision-making framework that respects the will and preference and individual choices of persons with disabilities.**

#### **[Hong-Kong \(2022\)](#)**

67. The Committee is concerned about regulations in the Mental Health Ordinance and the Guardianship Order that can lead to determination of legal incapacity and assignment of guardianship for adults with disabilities, stripping them of the right to exercise their legal capacity, including the right to social participation, the right to enter into a marriage and to form a family. The Committee is particularly concerned at reports of women with disabilities, persons with intellectual disabilities and/or psychosocial disabilities being disproportionately impacted by substituted decision-making regimes.

**68. The Committee recommends that Hong Kong SAR, China, in accordance with the Committee's general comment No. 1 (2014) on equal recognition before the law:**

- (a) Adopt laws and policies that replace the substitute decision-making system with supported decision-making mechanisms that respect the autonomy, will and preference of persons with disabilities, and ensure effective participation of women with disabilities to inform the drafting of laws and policies;**
- (b) Review all legislation with a view to eliminate all restrictions of rights as a result of a declaration of legal incapacity or on the grounds of a person's disability;**
- (c) Provide training on the requirements of the right to legal capacity of persons with disabilities to the authorities, including law enforcement agencies and courts.**

#### **Macao**

82. The Committee is concerned about the regimes of "interdiction" and "inhabilitation" and the appointing of guardianship for those declared "interdicted" or "inhabilitated", stripping them of the right to exercise their legal capacity, including the right to social participation, the right to enter into a marriage and to form a family.

**83. The Committee urges Macao SAR, China, in accordance with the Committee's general comment No. 1 (2014) on equal recognition before the law:**

- (a) To adopt laws and policies that replace the substitute decision-making system with supported decision-making mechanisms that respect the autonomy, will and preference of persons with disabilities;**
- (b) Review all legislation with a view to eliminating all restrictions of rights as a result of a declaration of legal incapacity or on the grounds of a person's disability;**
- (c) Provide training on the requirements of the right to legal capacity of persons with disabilities to the authorities, including law enforcement agencies and courts.**

#### **[Indonesia \(2022\)](#)**

30. The Committee is concerned that national legislation can deem people as lacking competence, in particular persons with psychosocial disabilities and persons with intellectual disabilities, placing them under conservatorship.

**31. The Committee recommends that in line with its general comment No. 1 (2014) on equal recognition before the law, the State party review Law 8 of 2014 on mental health, articles 433 and 434 of the Civil Code, the Criminal Code and article 32 of Law 8 of 2016 on persons with disabilities to be harmonized with the Convention to guarantee the right of all persons**

**with disabilities to equal recognition before the law and to establish supported decision-making mechanisms in all areas of life.**

### [Japan \(2022\)](#)

27. The Committee is concerned about:

(a) Legal provisions that deny the right of persons with disabilities to equal recognition before the law by allowing the restriction of their legal capacity, in particular, of persons with psychosocial or intellectual disabilities, based on assessments of their mental capacity, and by perpetuating substitute-decision making systems, under the Civil Code;

(b) Basic Plan on the Promotion of the Use of the Adult Guardian System approved in March 2022;

(c) Use of the term “the best interest of a person” within the Guidelines for Support for Decision-Making Relating to the Provision of Welfare Services for Persons with Disabilities of 2017.

**28. Recalling its General Comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Repeal all discriminatory legal provisions and policies with a view to abolishing substitute decision-making regimes, and amend the civil legislation to guarantee the right of all persons with disabilities to equal recognition before the law;**

**(b) Establish supported decision-making mechanisms that respect autonomy, will and preferences of all persons with disabilities, regardless the level or mode of support they may require.**

### [Lao People’s Democratic Republic \(2022\)](#)

20. The Committee observes with concern that:

(a) Provisions in legislation, including the Civil Code, the Penal Code, the Law on Civil Procedure and the Law on Criminal Procedure, deny the right of persons with disabilities to equal recognition before the law, particularly persons with intellectual or psychosocial disabilities, on the basis of actual or perceived impairment;

(b) The perpetuation of substituted decision-making and fail to recognize the will and preferences of persons with disabilities.

**21. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Amend the Civil Code, the Penal Code, the Law on Civil Procedure and the Law on Criminal Procedure and repeal any laws and associated policies and practices that have the purpose or effect of denying or diminishing the recognition of any person with disabilities as a person before the law;**

**(b) Develop and implement, in close consultation with and active involvement of persons with disabilities and their representative organizations, supported decision-making mechanisms that respects the will, preferences and individual choices of persons with disabilities.**

### [New Zealand \(2022\)](#)

17. The Committee is concerned about the negative perceptions and the devaluing of persons with disabilities that were expressed during the passage of the End of Life Choice Act 2019, and the potential negative impact of this on the implementation, monitoring and review of the Act.

**18. The Committee recommends that monitoring and review mechanisms for the End of Life Choice Act 2019 provide publicly available information on the impact on persons with disabilities, including the effectiveness of safeguards to counteract negative perceptions held by medical professionals and to prevent coercion in decision-making.**

### Republic of Korea (2022)

27. The Committee is deeply concerned about the lack of progress made to abolish the guardianship and substituted decision-making regime, limiting the active capacity of persons with disabilities on the basis of psychosocial and/or intellectual impairment, and at the lack of a timeframe to completely replace this regime with supported decision-making system. The Committee is also concerned about the lack of information about supported decision-making in accessible formats to increase understanding for persons with disabilities and their families.

**28. The Committee reiterates its previous recommendation (CRPD/C/KOR/CO/1, para. 22) and recommends that in line with its general comment No. 1 (2014) on equal recognition before the law, the State party:**

- (a) Replace substitute decision-making systems, including guardianships and wardships, with supported decision-making systems, which ensures the provision of individualized support and respects the autonomy, will and preferences of persons with disabilities;**
- (b) Ensure the effective, independent participation of persons with disabilities through their representative organizations in the reform process and in the training of the relevant personnel on the recognition of the legal capacity of persons with disabilities and on the mechanisms of supported decision-making;**
- (c) Organize and fund the development of information about what supported decision making is, in accessible formats such as Braille, sign language and Easy Read and distribute to persons with disabilities and their families.**

### Singapore (2022)

25. The Committee is concerned about the deprivation of legal capacity of persons with disabilities under certain conditions, and about the persistence of the guardianship and substituted decision-making regime, in particular with regard to medical decisions, depriving persons with psychosocial and intellectual disabilities of their right to equal recognition before the law.

**26. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends the State party expedite the review of its national legislation, including the Mental Capacity Act, the Vulnerable Adults Act, the Mental Health (Care and Treatment) Act, the Criminal Procedure Code, and the Prisons Act, and guarantee the right of all persons with disabilities, including persons with intellectual disabilities and persons with psychosocial disabilities, to equal recognition before the law, establish supported decision-making mechanisms in all areas of life, take all appropriate measures for the provision of individualized support, and train the relevant personnel accordingly.**

### Hungary (2022)

24. The Committee notes with concern:

- (a) The discriminatory nature of restriction on the legal capacity of persons with disabilities on the basis of impairment, the absence of measures to abolish the discriminatory provisions of the Civil Code and the persistence of the substitute decision-making regime, depriving persons with disabilities of their rights;
- (b) That attributes of a substituted decision-making regime have been retained in the supported decision-making mechanism established in Act CLV of 2013, which resulted in a measure that is ineffective and discriminatory.

**25. The Committee recommends that the State party, in line with article 12 of the Convention and the Committee's general comment No. 1 (2014):**

- (a) Recognize the discriminatory nature of the substitute decision-making regime and abolish all provisions allowing restrictions on the legal capacity of persons with disabilities on the basis of impairment;**
- (b) Adopt a mechanism to restore full legal capacity of all persons with disabilities, regardless of their impairment;**

**(c) Revise all provisions as regards the supported decision-making mechanism with the aim of ensuring that supported decision-making mechanisms respect the dignity, autonomy, will and preferences of persons with disabilities in the exercise of legal capacity by all persons with disabilities.**

### Jamaica (2022)

24. The Committee is concerned that national legislation allows substituted decision-making in property management, financial management, health care, and contract management, among other areas, limiting the active capacity of persons with disabilities on the basis of psychosocial and intellectual impairment.

**25. The Committee recommends that in line with its general comment No. 1 (2014) on equal recognition before the law, the State party expedite the review of the Mental Health Act and harmonize its national legislation, including article 13 (3) (g) of the Charter of Fundamental Rights and Freedoms Act (Constitutional Amendment) and section 8 (2) of the Property (Rights of Spouse) Act to guarantee the right of all persons with disabilities, including persons with psychosocial disabilities, to equal recognition before the law and to establish supported decision-making mechanisms in all areas of life.**

### Mexico (2022)

35. With reference to paragraph 23 of its previous concluding observations, the Committee is concerned about provisions in the Federal Civil Code and the Federal District Civil Code that contain rules on legal incapacity and guardianship for adults with disabilities, despite a judgment by the National Supreme Court of Justice of 2019. It is equally concerned about the rules conferring guardianship of children in institutions on the institution housing them. The Committee also notes with concern that the proposed national code for civil and family procedures fails to provide support measures allowing persons with disabilities to exercise their legal capacity, and that, in particular, women with disabilities, persons with intellectual disabilities and persons with psychosocial disabilities are disproportionately impacted by substituted decision-making regimes.

**36. The Committee recommends that the State party, in accordance with the Committee's general comment No. 1 (2014) on equal recognition before the law:**

**(a) Adopt laws and policies that replace the substitute decision-making system with supported decision-making mechanisms that respect the autonomy, will and preference of persons with disabilities, and ensure effective participation of women with disabilities to inform the drafting of laws and policies;**

**(b) Review all federal and state legislation with a view to eliminating all restrictions of rights as a result of a declaration of legal incompetence or on the grounds of a person's disability;**

**(c) Provide training on the requirements of the right to legal capacity of persons with disabilities to the authorities, including courts.**

### Switzerland (2022)

25. The Committee notes with concern:

(a) The lack of recognition of the right of persons with disabilities to equality before the law, including the existence of laws denying or restricting the legal capacity of persons with disabilities and placing them under guardianship;

(b) The absence of measures to support persons with disabilities to exercise their legal capacity on an equal basis with others.

**26. Recalling its general comment No. 1 (2014), the Committee recommends that the State party:**

**(a) Amend the Civil Code and the Act on the Protection of Adults and repeal any laws and associated policies and practices that have the purpose or effect of denying or diminishing the recognition of any person with disabilities as a person before the law;**



**(b) Develop and implement, in close consultation with and with the active involvement of persons with disabilities and their representative organizations, a nationally consistent framework for supported decision-making that respects the will, preferences and individual choices of persons with disabilities.**

### Venezuela (2022)

22. The Committee notes that:

(a) Although article 410 of the Civil Code, under which persons with disabilities were considered civilly incompetent, was expressly repealed, the Committee is concerned that systems based on substitute decision-making, and the concepts of guardianship and curatorship, were not abolished;

(b) The National Assembly is currently drafting a new piece of legislation on persons with disabilities.

**23. The Committee recommends that, bearing in mind article 12 of the Convention and its general comment No. 1 (2014) on equal recognition before the law, the State party:**

**(a) Ensure that the new legislation is consistent with the Convention, including with regard to the removal of restrictions on the legal capacity of persons with disabilities, and that it replaces substitute decision-making systems that deny persons with disabilities their legal capacity, including guardianship and curatorship, with supported decision-making systems; and take all measures to provide tailored support, properly inform persons with disabilities about such alternatives and train the personnel involved;**

**(b) Ensure the effective, independent participation of persons with disabilities through their representative organizations in the reform process.**

### Djibouti (2021)

19. The Committee notes with concern:

(a) That the legislation, including articles 166, 167, 176 and 179 of the Family Code, articles 565 and 579 of the Civil Code, and article 27 of the Criminal Code, deprives persons with disabilities, particularly for persons with psychosocial or intellectual disabilities, of their legal capacity and uphold them under guardianship regime;

(b) The absence of supported decision-making mechanisms for persons with disabilities to exercise their legal capacity on an equal basis with others.

**20. The Committee recommends that in line with its general comment No. 1 (2014) on equal recognition before the law, the State party:**

**(a) Review and repeal provision in its legislation, particularly the Family Code, Criminal Code and Civil Code, with a clear timeframe, to guarantee the right of all persons with disabilities, particularly for persons with psychosocial or intellectual disabilities, to equal recognition before the law and establish supported decision-making mechanisms in all areas of life to ensure that persons with disabilities are not denied the right to exercise their legal capacity on the basis of a third party's analysis of their "best interests and that practices associated with "best interests" determinations should be replaced by the standard of "best interpretation of the will and preferences" of the person;**

**(b) Develop awareness-raising campaigns and capacity-building programmes, in consultations with organizations of persons with disabilities, for all stakeholders, including the families of persons with disabilities, community members, public officials, the judiciary and members of the Parliament on the recognition of the legal capacity of persons with disabilities and supported decision-making.**

### France (2021)

25. The Committee notes with concern:

(a) Legal provisions, particularly article 459 in the Civil Code denying the right of persons with disabilities to equal recognition before the law and establishing deprivation of legal capacity

and autonomy through guardianship and wardship, on the basis of medical assessments of person's mental capacity;

(b) The absence of supported decision-making mechanisms compatible with the Convention, and measures that perpetuate substitute decision-making and fail to recognise the will and preferences of persons with disabilities.

**26. The Committee recommends that the State party, in line with the Committee's General comment No. 1 (2014) on equal recognition before the law:**

**(a) Review its understanding of legal protection measures and adopt the human rights model of disability ensuring the equal recognition of persons with disabilities before the law and repealing provisions allowing for substituted decision-making;**

**(b) Redirect organisational and financial resources from the substituted decision-making to develop supported decision-making mechanisms that respect dignity, autonomy, will and preferences of persons with disabilities, regardless the level or mode of support they may require.**

### [Estonia \(2021\)](#)

23. The Committee notes with concern:

(a) The State party's interpretative declaration made to article 12 of the Convention, upon ratification, and the provisions set out in the Civil Code, maintaining guardianship and the substitute decision-making regime, and limiting the active capacity of persons with disabilities on the basis of psychosocial, and intellectual impairment;

(b) The absence of supported decision-making mechanisms for the exercise of legal capacity by persons with disabilities, on an equal basis with others;

(c) The lack of disaggregated statistics about persons with disabilities placed under substitute decision-making regime, and the lack of measures for them to regain their legal capacity.

**24. The Committee recommends that the State party:**

**(a) Review its interpretative declaration on article 12 of the Convention, and guarantee the right of all persons with disabilities to equal recognition before the law, and supported decision-making, in all areas of life;**

**(b) Amend the Civil Code to repeal the guardianship regime, and develop a system of supported decision-making for all persons with disabilities, in line with the Committee's general comment No. 1 (2014) on equal recognition before the law. Supported decision-making mechanisms must respect dignity, autonomy, will and preferences of persons with disabilities in the exercise of legal capacity by all persons with disabilities;**

**(c) Adopt a plan of action to restore the full legal capacity of all persons with disabilities, irrespective of impairment.**

### [Albania \(2019\)](#)

23. The Committee is concerned about the insufficient progress made to amend all national legislation that denies or restricts the legal capacity of persons with disabilities, including the Civil Code, Civil Procedure Code, Family Code and the Mental Health Law, and on existing or planned mechanisms for supported decision-making. It is also concerned about the inadequacy of the State party's legal measures for ensuring the rights of persons with disabilities, in particular persons with intellectual or psychosocial disabilities, to make choices about their lives and enjoy the right to equal recognition before the law.

**24. Recalling its general comment No. 1 (2014) on equal recognition before the law and the report of the Commissioner for Human Rights of the Council of Europe following her visit to Albania (para. 74), the Committee recommends that the State party harmonize its legislation to adhere to the Convention, repeal all laws that restrict the legal capacity of persons with disabilities, in particular persons with psychosocial or intellectual disabilities, replacing substituted decision-making with supported decision-making regimes that respect the**



**person's autonomy, will and preferences and establishing transparent remedies for persons with disabilities whose legal capacity has been removed, throughout the State party.**

### [Australia \(2019\)](#)

23. Despite the recommendations of the Australian Law Reform Commission, the Committee is concerned about the lack of progress made to abolish the guardianship system and substituted decision-making regime, particularly in decisions concerning forced psychiatric treatment, and at the lack of a time frame to completely replace that regime with supported decision-making systems.

**24. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Repeal any laws and policies and end practices or customs that have the purpose or effect of denying or diminishing the recognition of any person with disabilities as a person before the law;**

**(b) Implement a nationally consistent supported decision-making framework, as recommended in a 2014 report of the Australian Law Reform Commission entitled *Equality, Capacity and Disability in Commonwealth Laws*.**

### [Ecuador \(2019\)](#)

25. The Committee is deeply concerned at the fact that the Civil Code and the Organic Code of General Procedure continue to provide for guardianships and wardships.

**26. The Committee recommends that, bearing in mind its general comment No. 1 (2014) on equal recognition before the law, the State party:**

**(a) Bring the Organic Code of General Procedure into line with the Convention without delay by, inter alia, eliminating restrictions on the legal capacity of persons with disabilities;**

**(b) Replace substitute decision-making systems, including guardianships and wardships, with supported decision-making systems, take all appropriate measures for the provision of individualized support, properly inform persons with disabilities about such alternatives and train the relevant personnel in accordance with article 12 of the Convention;**

**(c) Ensure the effective, independent participation of persons with disabilities through their representative organizations in the reform process.**

### [El Salvador \(2019\)](#)

24. The Committee is concerned that no progress has been made to repeal article 74 of the Constitution, which suspends citizenship rights due to "mental alienation" and "judicial interdiction", and which severely restricts the rights of persons with disabilities, particularly persons with intellectual or psychosocial disabilities and persons with hearing impairments, whose equal recognition before the law is restricted.

**25. The Committee recalls its general comment No. 1 (2014) on equal recognition before the law, and recommends that the State party repeal the regime of declaration of incapacity in its legislation, particularly in the Constitution and the Family Code. The Committee also recommends that the State party allocate human and budgetary resources to replace substituted decision-making with a supported decision-making regime for persons with disabilities, particularly persons with psychosocial, intellectual or hearing disabilities.**

### [Greece \(2019\)](#)

17. The Committee is concerned about the lack of measures taken to abolish the denial or restriction of legal capacity, and to ensure that supported decision-making measures are available for persons with disabilities. It is also concerned about the practical obstacles faced by persons with disabilities when exercising their legal capacity due to, inter alia, the absence of specific guidelines and the shortage of officials and service providers trained in the provision of the necessary support to persons with disabilities in decision-making.

18. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party bring its legislation into line with the Convention, replacing substituted decision-making, including judicial support mechanisms, with supported decision-making regimes that respect the person's autonomy, will and preferences. It also recommends that the State party take all other appropriate measures to guarantee access by persons with disabilities to the support required to ensure their right to equal recognition before the law and to exercise their legal capacity, including training of officials and service providers across all sectors.

### India (2019)

26. The Committee is concerned that the Rights of Persons with Disabilities Act (sect. 14) allows for "limited guardianship" and a "system of joint decision" affecting persons with disabilities, particularly deafblind persons and persons with intellectual or psychosocial disabilities. It is also concerned that the State party understands guardianship as a form of support (CRPD/C/IND/Q/1/Add.1, para. 62), a perception that is not in accordance with the Convention. It is further concerned about the de facto guardianship imposed on persons affected by leprosy, and the absence of measures to introduce supported decision-making.

**27. The Committee recommends that the State party, guided by the Committee's general comment No. 1 (2014) on equal recognition before the law:**

**(a) Eliminate all types of guardianship from its national and state legislation and practices, including in the Rights of Persons with Disabilities Act (sect. 14), the Mental Health Care Act (sect. 4) and the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act;**

**(b) Introduce supported decision-making systems that are respectful of the autonomy, will and preferences of all persons with disabilities, and provide information to persons with disabilities about these systems;**

**(c) Raise awareness in society, including families of persons with disabilities, about the right to equal recognition before the law, and about how to realize the right to legal capacity of persons with disabilities, including persons affected by leprosy, deafblind persons and persons with intellectual or psychosocial disabilities. The State party should train public officials on the right of persons with disabilities to equal recognition before the law and on supported decision-making arrangements, in line with the Convention.**

### Iraq (2019)

23. The Committee is concerned about:

(a) The guardianship regime in relation to persons with psychosocial or intellectual disabilities set out in articles 46 (2) and 104 of the Civil Code (Law No. 40 (1951)), and also about the fact that articles 94, 95, 107 and 108 of the Civil Code and article 7 of Law No. 188 (1959) do not recognize the legal capacity of persons with intellectual or psychosocial disabilities;

(b) Reports of instances in which the legal capacity of persons with hearing or visual impairments has not been recognized in financial matters.

**24. The Committee recommends that the State party:**

**(a) Expedite the amendment of Law No. 38 (2013) and other relevant legislation to guarantee the equal recognition of persons with disabilities before the law and develop a system of supported decision-making for all persons with disabilities, in line with the Committee's general comment No. 1 (2014) on equal recognition before the law;**

**(b) Raise awareness among society, including families, on how to respect the legal capacity of persons with disabilities in all areas of life.**

### Kuwait (2019)

24. The Committee is concerned about restrictions in legislation to equal recognition before the law and about:

(a) The inclusion of substituted decision-making provisions for persons with disabilities, particularly those with psychosocial or intellectual disabilities, in, among others, article 109 of

the Civil Code, and that the inclusion of such provisions deprives persons with disabilities of their legal capacity without providing them with sufficient measures to support them in making decisions;

(b) Barriers faced by persons with disabilities in the exercise of their full legal capacity in all areas of life, including the mandatory assistance of a third person to enable a blind person to open a bank account, among other commercial transactions.

**25. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Review its legislation, including the Civil Code and Act No. 8/2010, to repeal substituted decision-making regimes, replace them with a supported decision-making regime and introduce supported decision-making mechanisms;**

**(b) Remove all practical barriers faced by persons with disabilities in the exercise of their legal capacity on an equal basis with others, including in relation to property, banking and asset management.**

### [Myanmar \(2019\)](#)

23. The Committee is concerned about the legislation in the State party that restricts the legal capacity of persons with disabilities on the basis of actual or perceived impairment, such as the Guardians and Wards Act or the “Lunacy” Act, which provide for substituted decision-making regimes.

**24. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party enact legislation recognizing the full legal capacity of persons with disabilities, abolishing substituted decision-making regimes, including guardianship, and introducing supported decision-making regimes that respects the autonomy, will and preferences of persons with disabilities.**

### [Cuba \(2019\)](#)

25. The Committee is concerned that the State party’s legislation, such as articles 30, 31 and 67 of the Civil Code (1987) and articles 137 and 138 of the Family Code (1975), limit the ability of persons with disability to fully exercise their legal capacity, and provide for substituted decision-making instead of supported decision-making.

**26. In keeping with article 12 of the Convention and its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Expedite the review of its national legislation to repeal all legal provisions and end all practices that partially or completely limit the legal capacity of persons with disabilities;**

**(b) Take tangible steps to establish a supported decision-making system that respects the autonomy, wishes and preferences of persons with disabilities;**

**(c) Ensure that there are no practical barriers and that persons with disabilities are able to exercise their right to legal capacity on an equal basis with others.**

### [Niger \(2019\)](#)

19. The Committee is concerned that:

(a) Certain national laws are discriminatory in nature and deprive persons with disabilities, in particular persons with psychosocial or intellectual disabilities of their legal capacity, including articles 489 to 512 of the Civil Code;

(b) The lack of supported-decision making regimes for persons with disabilities respecting their will and preferences.

**20. The Committee recommends that the State party in line with the Committee’s general comment No. 1 (2014) on equal recognition before the law:**

**(a) Repeal the provisions of the Civil Code, including articles 489 to 512 that restrict the legal capacity of persons with disabilities, especially persons with psychosocial or intellectual disabilities;**

- (b) Develop supported-decision making mechanisms for persons with disabilities respecting their autonomy, rights, will and preferences;**
- (c) Design capacity building programmes for public officials, including the judiciary and legislature, raise awareness among persons with disabilities, their families and community members about the right to equal recognition before the law of persons with disabilities, the supported decision-making regime, and the legal capacity of persons with disabilities in consultation with organizations of persons with disabilities.**

### Norway (2019)

19. The Committee is concerned that:

- (a) The substituted decision-making regime has not been yet replaced with supported decision-making regimes, including for persons with psychosocial or intellectual disabilities;**
- (b) County governors are still appointing guardians for persons with disabilities;**
- (c) Persons receiving support lack training so they can decide when less support is needed or when they no longer require support in the exercise of their legal capacity;**
- (d) There is an absence of effective safeguards for the exercise of legal capacity and knowledge about the scope of support for decision-making.**

**20. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

- (a) Given that the Guardianship Act is under revision, consider systemic change by replacing guardianship and all other forms of substituted decision-making with supported decision-making for all persons with disabilities regardless of support requirements;**
- (b) Repeal the Guardianship Act, which denies legal capacity based on impairment, ensure that no person is placed under guardianship and increase training about the recognition of full legal capacity of all persons with disabilities;**
- (c) Establish a legal procedure aimed at restoring the full legal capacity of all persons with disabilities, and ensure that the supported decision making regimes respect the autonomy, will and preferences of the person concerned;**
- (d) Create appropriate and effective safeguards monitored and supervised at the county level for the exercise of legal capacity to ensure the respect of the person's rights, will and preferences and protecting persons with disabilities from undue influence;**
- (e) Conduct capacity building activities for public officials on the right to equal recognition before the law of persons with disabilities and supported decision-making arrangements and for persons receiving support so that they can decide when less support is needed or when they no longer require support in the exercise of their legal capacity.**

### Rwanda (2019)

23. The Committee is concerned that legislation, such as article 150 of the Law Governing Persons and Family, and Article 4(2) of the Law Governing Contracts, provides for the discriminatory restriction of legal capacity of persons with disabilities on the basis of impairment. The Committee is concerned about the existence of substituted decision-making and guardianship regimes for persons with disabilities.

**24. In view of the Committee's general comment No. 1 (2014), the Committee recommends that the State party repeal all discriminatory legal provisions and end all practices that limit the legal capacity of persons with disabilities, including article 150 of Law No. 32/2016 and article 4(2) of the Law Governing Contracts. It also recommends that the State party enact legislation recognizing the full legal capacity of persons with disabilities, includes a supported decision-making regime that respects the autonomy, wishes and preferences of persons with disabilities.**

### Saudi Arabia (2019)

21. The Committee is concerned that persons with psychosocial or intellectual disabilities are deprived of equal recognition before the law, resulting from the practice of evaluating the

decision-making capacity of persons with disabilities. It is moreover concerned at the absence of measures taken to grant the necessary support to persons with disabilities for the exercise of their legal capacity.

**22. The Committee recommends that the State party, in line with the Committee's general comment No.1 (2014) on equal recognition before the law:**

- (a) Take legislative measures to recognize the full legal capacity of persons with disabilities on an equal basis with others, and abolish substitute decision making regimes;**
- (b) Introduce supported decision making mechanisms that respect the autonomy, will and preferences of persons with disabilities in all areas of life;**
- (c) Create and implement awareness-raising programmes about supported decision-making and the legal capacity of persons with disabilities for persons with disabilities, their families, community members, social workers, the judiciary and the legislature;**
- (d) Consult with organizations of persons with disabilities, as well as other relevant stakeholders, in these legislative and policy processes.**

### Senegal (2019)

21. The Committee is concerned about:

- (a) The absence of measures to replace substituted decision-making regimes with supported decision making regimes that respect the autonomy, rights, will and preferences of persons with disabilities in all areas of life;
- (b) The lack of legislation and other policy measures to ensure that persons with disabilities, particularly persons with psychosocial or intellectual disabilities, enjoy their legal capacity on an equal basis with others, including to enter into contracts, open bank accounts and take bank loans and mortgages and to marry a partner of their choice;
- (c) The lack of data on persons with disabilities still under guardianship, disaggregated by age, sex and type of impairment.

**22. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

- (a) Repeal all legislation that allows for restricted legal capacity and substituted decision-making, and adopt legislation on supported decision-making;**
- (b) Develop awareness-raising campaigns, in consultation with representative organisations of persons with disabilities for all stakeholders, including their families and community members, civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and supported decision-making.**
- (c) Adopt measures to collect data on persons still under guardianship, disaggregated by age, gender and type of impairment with a view to restoring full legal capacity of all persons with disabilities.**

### Spain (2019)

22. The Committee is concerned that the Civil Code of the State Party provides for deprivation of legal capacity of a person on the basis of disability, and maintains the substitute decision-making.

**23. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party repeal all discriminatory legal provisions with a view to fully abolishing substitute decision-making regimes, recognize full legal capacity of all persons with disabilities and introduce supported decision-making mechanisms that respect the dignity, autonomy, will and preferences of persons with disabilities.**

### Türkiye (2019)

25. The Committee is concerned about:

- (a) The guardianship regime in the Civil Code limiting the capacity to act of persons with disabilities on the basis of psychosocial, intellectual, or hearing impairments, and that at least



13,934 persons with disabilities are reported to remain under guardianship and institutionalized in public and private institutions;

(b) The reported continuing practice of two witnesses for notarial acts for persons with visual, hearing or speech impairments, despite amendments to the Notary Law prohibiting it;

(c) The lack of transparent and effective data on safeguards and remedies, as well as access to information in cases of violations of the right to legal capacity of persons with disabilities, particularly with regard to the right to marry and to vote.

(d) The lack of information on the planned transition from substitute decision-making to supported decision-making;

**26. The Committee, recalls its general comment No. 1 (2014) on equal recognition before the law and recommends that the State party:**

**(a) Amend the relevant laws to abolish restrictions of the legal capacity of persons with disabilities and replace the guardianship regime with support decision-making mechanisms;**

**(b) Introduce an effective moratorium on new institutionalization of persons with disabilities under guardianship;**

**(c) Ensure compliance with the Notary Law, as amended to ensure equal recognition before the law for all persons with disabilities;**

**(d) Revise legislative measures in the Civil Code and in other laws that subject the right to marry and the right to vote of persons with intellectual impairments to medical authorization;**

**(e) Build the capacity of civil servants, law enforcement officials and judges as well as social workers on the recognition of the legal capacity of persons with disabilities and on safeguards and good practices to provide supported decision-making. The State party should meaningful consult and involve persons with disabilities through their representative organizations and the Ombudsman, at the national, regional and local levels for developing trainings and awareness-raising about the supported decision-making.**

### Vanuatu (2019)

22. The Committee is concerned that persons with disabilities, particularly those with intellectual or psychosocial disabilities, continue to be denied their legal capacity on the ground of disability in law and in practice.

**23. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Repeal and amend, without delay, all legal provisions that restrict the legal capacity of persons with disabilities on the basis of impairment;**

**(b) Replace all substituted decision-making regimes with supported decision-making mechanisms that respect the autonomy of persons with disabilities and increase awareness among persons with disabilities, their families and relevant officials, including the judiciary, about the rights of persons with disabilities particularly equal recognition before the law.**

### Algeria (2018)

24. The Committee is concerned that national legislation, particularly the Civil Code (arts. 40, 42, 44 and 78) and the Family Code arts 81, 85 et 86, Chapter 5 Art 99, Chapitre 1 are inconsistent with the Convention in as much as they deny the legal capacity of persons with disabilities completely or partially, and provide for substituted decision making instead of supported-decision making. It is also concerned by the lack of data on persons still under guardianship, disaggregated by age, gender and type of impairment.

**25. The Committee recommends that the State party immediately repeal or amend discriminatory legislation, recognize the full legal capacity of all persons with disabilities on an equal basis with others, and introduce supported decision-making mechanisms that respect the autonomy, will and preferences of persons with disabilities in all areas of life, in line with the Committee's General Comment No. 1 (2014) on equal recognition before the law. It also recommends that the State party adopt measures to strengthen data collection on persons still under guardianship, disaggregated by age, gender and disability.**

### Bulgaria (2018)

29. The Committee is concerned about the State party's legislation still restricting legal capacity of persons with disabilities and providing for guardianship for persons with psychosocial and persons with intellectual disabilities. It is also concerned about the delay in approving the draft Natural Persons and Support Measures Act aimed at recognising the rights to legal capacity of persons with disabilities.

**30. The Committee recommends that the State party amend its legislation and adopt the Natural Persons and Support Measures Act, and fully upholds and recognise full legal capacity for all persons regardless impairment, following the guidelines of the Committee's General comment No. 1 (2014) Equal recognition before the law. It also recommends that the State party establish support-decision making procedures, in consultation with organizations of persons with disabilities, and provide continuous training on article 12 of the Convention to different stakeholders, including members of the judiciary, health care and social protection professionals.**

### Philippines (2018)

24. The Committee is concerned that:

(a) The State party legislation still denies legal capacity of persons with disabilities to express their will and preferences concerning all aspects of their lives, and establishes guardianship and restricted capacity to exercise rights by persons with intellectual and persons with psychosocial disabilities;

(b) The ongoing deliberations at the Congress on the selective provision of support for decision-making, and on the "legal representatives" acting virtually as substitute decision-makers, which shall result in non-compliance of the right to equality before the law;

(c) Persons with disabilities face difficulties in accessing the legal system due to the absence of legal practitioners able to communicate with persons with disabilities, in particular persons with hearing impairments.

**25. The Committee recommends that the State party:**

**(a) Review Articles 37-39 of the Civil Code of the Philippines (R.A. No. 386), Article III Section 11 of the 1987 Philippine Constitution and R.A. No. 9406 Civil Code and enact legislation recognizing full legal capacity of persons with disabilities in line with the Committee's general comment No. 1 (2014) on equal recognition before the law;**

**(b) Provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on the principles of supported decision-making;**

**(c) Establish a system of supported decision-making for persons with disabilities, in line with the freedom of choice of per**

### Poland (2018)

19. The Committee is concerned about the State Party's interpretative declaration on article 12 and the Civil Code's provisions allowing for deprivation of legal capacity of persons with psychosocial and/or intellectual disability and assignment of guardian or "curator" to make decisions on their behalves, as well as about the large and growing number of persons with disabilities deprived of their legal capacity.

**20. The Committee calls the State Party to withdraw its interpretative declaration on article 12 of the Convention and, recalling its general comment No. 1 (2014) on Equal recognition before the law, to repeal all discriminatory provisions under the Civil Code and other legal acts, allowing for deprivation of legal capacity of persons with disabilities, considering that legal capacity includes the capacity to be both, a holder of rights and an actor under the law, and capacity to legal acts, as it is defined in legislation. It further recommends to establish a procedure aimed at restoring full legal capacity of all persons with disabilities, and to**

**develop supported decision-making mechanisms that respect the autonomy, will and preferences of the person.**

### Malta (2018)

19. The Committee is seriously concerned that persons with disabilities are still deprived of their legal capacity and are still subject to multiple forms of discrimination, as per the Civil Code (Cap. 16), the Code of Organization and Civil Procedure (Cap. 12) and the Code of Organization and Civil Procedure and the Civil Code (Amendment) Act (“Guardianship Act”) (2012) which provide for substitute decision-making regimes. It is also concerned that persons with disabilities, in particular persons with psychosocial and/or intellectual disabilities, are still placed under Interdiction and Incapacitation orders, and that the Personal Autonomy Bill which is currently being drafted may deprive persons with disabilities of their legal capacity, by introducing concepts and mechanisms, such as “safeguardor”, “co-decision making” and “representation agreements”.

**20. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party, in close cooperation with persons with disabilities, through their representative organizations:**

**(a) Amend all discriminatory legal provisions, including provisions of the Civil Code (Cap. 16), the Code of Organization and Civil Procedures (Cap. 12), and the Code of Organization and Civil Procedure and the Civil Code (Amendment) Act (“Guardianship Act”) (2012), with a view to abolishing substitute decision-making regimes;**

**(b) Restore the full legal capacity of all persons with disabilities and review its guardianship system and all remaining Interdiction and Incapacitation orders;**

**(c) Introduce supported decision-making mechanisms that respect the autonomy, will and preferences of persons with disabilities, and adopt and implement a Personal Autonomy Bill in line with article 12 of the Convention;**

**(d) Improve data collection and disaggregation about persons who are still under substituted decision-making regimes and Interdiction or Incapacitation orders, with a view to improving public policies designed for social inclusion.**

### South Africa (2018)

22. The Committee is concerned about:

(a) The current guardianship and mental health laws, which maintain a substitute decision making regime and the absence of legislation and supported decision-making mechanisms for persons with disabilities that uphold the autonomy, rights, will and preferences of persons with disabilities in all areas of life;

(b) The lack of data on persons with disabilities under guardianship, disaggregated by age, gender and type of impairment.

**23. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

**(a) Repeal all legislation that allow for substituted decision-making, and adopt legislation on supported decision-making and measures to strengthen data collection in this respect, disaggregated by age, gender and type of impairment;**

**(b) Provide training, in consultation with representative organisations of persons with disabilities for all stakeholders, including their families and community members, civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on existing good practices in supported decision-making.**

### North Macedonia (2018)

24. The Committee is concerned that the laws in the State party deprive or restrict the legal capacity of persons with disabilities, especially the existing guardianship system, with restrictions on decision making and right to choice.

**25. The Committee recommends that the State party:**



- (a) Repeal all discriminatory provisions that allow deprivation of legal capacity based on impairment and develop and replace these with supported decision-making mechanisms that respect autonomy, will and preferences of the person concerned;**
- (b) Conduct capacity building activities for public officials on the right to equal recognition before the law of persons with disabilities and supported decision-making arrangements.**

### Haiti (2018)

22. The Committee notes with concern existing laws such as articles 399 to 424 of the Civil Code, and article 266 of the Code of Criminal Procedure which predate the entry into force of the Convention and deny persons with disabilities their legal capacity. It is concerned that persons under guardianship and curatorship regimes, in particular persons with psychosocial or intellectual disabilities, are deprived of the right to exercise their legal capacity. It is also concerned about the lack of knowledge about supported decision-making regimes.

**23. The Committee recommends that the State party, in accordance with its general comment No. 1 (2014) on equal recognition before the law:**

- (a) Repeal all legal provisions that restrict the legal capacity of persons with disabilities, particularly persons with psychosocial or intellectual disabilities;**
- (b) Replace all guardianship regimes with supported decision-making mechanisms for persons with disabilities, which respect their autonomy, rights, will and preferences;**
- (c) Develop capacity-building programmes for government officials on the right of persons with disabilities, equal recognition before the law and supported decision-making system, and raise awareness among persons with disabilities, their families and society in general.**

### Nepal (2018)

21. The Committee is concerned that no changes of legal provisions to replace substituted decision-making with supported decision-making, which respects the person's autonomy, will and preferences of persons with disabilities, in full conformity with article 12 of the Convention and general comment No. 1 (2014) have been undertaken. The Committee is particularly concerned that while the State party is making efforts to implement supported decision making, substituted decision making is still used in the State party. The Committee is further concerned at reports that persons with intellectual or/psychosocial disabilities are sometimes expelled from governmental, judicial, institutional or private enterprises, and accordingly their equal recognition before the law is denied, contrary to the provisions of article 12 of the Convention.

**22. The Committee recommends that the State party revise its legislation in order to recognize the full legal capacity of all persons with disabilities, notwithstanding their impairment, on an equal basis with others, and introduce supported decision-making mechanisms in line with the Committee's general comment No. 1 (2014) on equal recognition before the law. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on the principles of supported decision-making.**

### Oman (2018)

25. The Committee is concerned that:

- (a) Various national laws deprive persons with disabilities, in particular persons with intellectual and/or psychosocial disabilities, of their legal capacity, contrary to article 12 of the Convention;**
- (b) There is a lack of data on persons under guardianship, disaggregated by age, gender and type of impairment.**

**26. The Committee recommends that the State party:**

- (a) Amend its legislation, in particular articles 41, 42 and 44 of the Civil Code of 2013 so as to recognize the full legal capacity of persons with disabilities on an equal basis with others, and introduce supported decision-making mechanisms that respect the autonomy, will and preference of persons with disabilities in all areas of life, in line with the Committee's general comment No. 1 (2014) on equal recognition before the law;
- (b) Create awareness-raising programmes for persons with disabilities, their families and community members, the judiciary and legislature on supported decision-making and legal capacity of persons with disabilities in consultation with organizations of persons with disabilities;
- (c) Adopt measures to strengthen data collection on persons under guardianship, disaggregated by age, gender and type of impairment.

### Russian Federation (2018)

26. The Committee notes with concern that the State Party's legislation, especially the Civil Code and the Civil Procedure Code, uphold substitute decision-making and that the State party's legislation does not provide for supported decision making mechanisms for such persons.

**27. The Committee recommends that the State Party amend its legislation, especially the Civil Code and the Civil Procedure Code, including by introducing the concept of supported decision making, and fully harmonize its legislation with provisions of article 12 of the Convention, as elaborated in the Committee's General Comment No. 1 and recognize full legal capacity to all persons with all types of disability.**

### Seychelles (2018)

18. The Committee notes with concern the discriminatory legal provisions in the non-litigious civil procedure act and Family Code, and allowing for deprivation of legal capacity, including business and procedural capacity, of persons with psychosocial and/or intellectual disabilities. It is also concerned that the State party considers guardians as a form of support although they are appointed to substitute the decision-making power of persons with disabilities in various areas of life. It is also concerned about the absence of mechanisms to replace the substituted decision-making with a supported decision-making regime.

**19. The Committee recalls its general comment No. 1 (2014) on equal recognition before the law, and recommends that the State party repeal all discriminatory provisions allowing for deprivation of the legal capacity on the basis of impairment, and ensure that the amendment to the Family Code withdraws any form of substituted-decision-making for persons with disabilities, in any area of life. It also calls upon the State party to establish a procedure aimed at restoring full legal capacity of all persons with disabilities, and to develop and implement supported decision-making mechanisms that respect the autonomy, will and preferences of the person.**

### Slovenia (2018)

18. The Committee notes with concern the discriminatory legal provisions in the non-litigious civil procedure act and Family Code, and allowing for deprivation of legal capacity, including business and procedural capacity, of persons with psychosocial and/or intellectual disabilities. It is also concerned that the State party considers guardians as a form of support although they are appointed to substitute the decision-making power of persons with disabilities in various areas of life. It is also concerned about the absence of mechanisms to replace the substituted decision-making with a supported decision-making regime.

**19. The Committee recalls its general comment No. 1 (2014) on equal recognition before the law, and recommends that the State party repeal all discriminatory provisions allowing for deprivation of the legal capacity on the basis of impairment, and ensure that the amendment to the Family Code withdraws any form of substituted-decision-making for persons with disabilities, in any area of life. It also calls upon the State party to establish a procedure**

aimed at restoring full legal capacity of all persons with disabilities, and to develop and implement supported decision-making mechanisms that respect the autonomy, will and preferences of the person.

### Sudan (2018)

23. The Committee is concerned about laws in the State party continuing to deprive or restrict the legal capacity of persons with disabilities in many areas of life, in particular to persons with intellectual and/or psychosocial disabilities, such as the Personal Status Act of 1991, the Public Guardianship Act of 1837, article 202 of the Code of Criminal Procedure of 1991, and articles 57 to 61 of the Civil Transactions Act of 1984.

**24. The Committee recommends that the State party:**

- (a) Review its legislation, including the above mentioned Acts, to abolish the deprivation of legal capacity on the basis of impairment;**
- (b) Introduce supported decision-making arrangements that respect persons with disabilities autonomy, will and preferences and raise awareness among persons with disabilities, their families and society about them;**
- (c) Conduct capacity building activities for public officials on the right to equal recognition before the law of persons with disabilities and supported decision-making arrangements.**

### Latvia (2017)

20. The Committee notes with concern that the amendments to the civil law in 2013 concerning legal capacity preserve discriminatory provisions, including temporary guardianship and partial legal capacity. It also notes with concern that, in practice, courts generally apply substituted decision-making due to a lack of understanding of legal alternatives to the restriction of legal capacity.

**21. Recalling article 12 (2) of the Convention, which states that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life, and its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party repeal the legal provisions in civil law concerning substituted decision-making and restore the full legal capacity of all persons with disabilities through a supported decision-making regime that respects the autonomy, will and preferences of the person.**

### Luxembourg (2017)

24. The Committee notes with concern the discriminatory legal provisions still in place, such as article 490 and Chapter III of the Civil Code and the Guardianship Act of 1982 providing for substitute decision-making regimes. It is concerned by the lack of disaggregated data on the number of persons with disabilities still deprived of their legal capacity and subject to substitute decision-making regimes.

**25. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party, in close cooperation with persons with disabilities, through their representative organizations:**

- (a) Repeal and/or amend all discriminatory legal provisions, including article 490 and Chapter III of the Civil Code and the Guardianship Act of 1982, with a view to abolishing substitute decision-making regimes;**
- (b) Restore the full legal capacity of all persons with disabilities and review its guardianship system;**
- (c) Introduce supported decision-making mechanisms that respect the autonomy, will and preferences of persons with disabilities, such as the mechanism of “person of trust” currently existing in the health sector for persons not denied legal capacity;**
- (d) Improve data collection and disaggregation about persons who are still under substituted decision-making regimes, with a view to improving public policies;**
- (e) Adopt professional quality standards for supported decision-making mechanisms;**

**(f) Together with persons with disabilities, particularly persons with psychosocial and/or intellectual disabilities, through their representative organizations, develop and carry out training to all relevant actors at the national and local levels, including civil servants, judges, social workers, health and social services professionals and the wider community on the recognition of the legal capacity of persons with disabilities and on supported decision-making.**

### Montenegro (2017)

24. The Committee is concerned about the current substituted decision-making and guardianship regime, which restricts the exercise of various rights. It notes with concern that the number of persons with disabilities who are deprived of their full legal capacity continues to be high.

**25. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee urges the State party to fully harmonize its legislation with the Convention, to replace the current guardianship and substituted decision-making regime with a system of supported decision-making that fully respects the autonomy, integrity, dignity, will and preferences of the person, and to establish transparent and effective remedies for persons with disabilities whose legal capacity has been removed.**

### Morocco (2017)

26. The Committee is concerned about:

(a) The denial, on the basis of impairment, of legal capacity of persons with disabilities, in particular of persons with sensory, psychosocial and/or intellectual disabilities, and the de facto guardianship exercised in families of persons with disabilities;

(b) The absence of understanding and development of supported decision-making alternatives for persons with disabilities that respect their will and preferences.

**27. The Committee recommends that the State party, in line with general comment No. 1 (2014) on equal recognition before the law:**

(a) **Repeal the provisions of the Family Code and other laws that restrict the legal capacity of persons with disabilities, in particular persons with psychosocial and/or intellectual disabilities;**

(b) **Introduce and develop supported decision-making mechanisms for persons with disabilities that respect the autonomy, rights, will and preferences of persons with disabilities in all areas of life;**

(c) **Design capacity-building programmes for public officials on, and raise awareness among persons with disabilities, their families and society of, the right to equal recognition before the law of persons with disabilities and the supported decision-making system.**

### Panama (2017)

30. The Committee is concerned that, even though Act No. 15 of 2016 provides for equal recognition before the law and the legal capacity of persons with disabilities, restrictions on their legal capacity contained in articles 404 to 407 of the Family Code, in the Commercial Code and in article 45 of the Civil Code remain in force.

**31. In keeping with article 12 of the Convention and its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

(a) **Repeal all legal provisions and end all practices that partially or completely limit the legal capacity of persons with disabilities;**

(b) **Take tangible steps to establish a supported decision-making system that respects the autonomy, wishes and preferences of persons with disabilities;**

(c) **Ensure that there are no barriers and that persons with disabilities are able to exercise their right to legal capacity on an equal basis with others.**

## United Kingdom of Great Britain and Northern Ireland (2017)

30. The Committee is concerned about:

- (a) The legislation in the State party that restricts the legal capacity of persons with disabilities on the basis of actual or perceived impairment;
- (b) The prevalence of substituted decision-making in legislation and in practice, and the lack of full recognition of the right to individualized supported decision-making that fully respects the autonomy, will and preferences of persons with disabilities;
- (c) The insufficient support to all asylum seekers and refugees with psychosocial and/or intellectual disabilities in exercising their legal capacity;
- (d) The high number of black people with disabilities who are compulsorily detained and treated against their will.

**31. The Committee recommends that the State party, in close consultation with organizations of persons with disabilities, including those representing persons from black and minority ethnic groups and in line with the Committee's general comment No. 1 (2014) on equal recognition before the law, abolish all forms of substituted decision-making concerning all spheres and areas of life by reviewing and adopting new legislation in accordance with the Convention to initiate new policies in both mental capacity and mental health laws. It urges the State party to step up efforts to foster research, data and good practices in the area of, and speed up the development of, supported decision-making regimes. It recommends that the State party ensure that asylum seekers and refugees with disabilities can exercise all rights enshrined in the Convention.**

## Armenia (2017)

19. The Committee notes with concern the discriminatory legal provisions in the Constitution and the Civil Procedure Code that allow for the deprivation of legal capacity and the appointment of a guardian on the basis of psychosocial or intellectual disability. It is also concerned by the lack of mechanisms to replace the system of substituted decision-making with a supported decision-making regime.

**20. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party repeal the discriminatory legal provisions in the Constitution and the Civil Procedure Code, restore the full legal capacity of all persons with disabilities and introduce supported decision-making regimes.**

## Bosnia and Herzegovina (2017)

22. The Committee is concerned about the current guardianship regime, which contradicts the Convention and the Committee's general comment No. 1 (2014) on equal recognition before the law. It is concerned about the lack of transparent and effective remedies, particularly regarding the current practice of depriving persons with disabilities of their full legal capacity. The Committee is gravely concerned about the denial of the rights to marry and vote.

**23. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party harmonize its legislation with the Convention, replacing substituted decision-making with supported decision-making regimes that respect the person's autonomy, will and preferences and establishing transparent remedies for persons with disabilities whose legal capacity has been removed, throughout the State party.**

## Canada (2017)

27. The Committee is concerned that since 2010, the number of cases of guardianship of persons with disabilities has increased in all provinces but one. In many provinces and territories a substitute decision maker is permitted to make health-care decisions for a person who is found to be "incapable" of making his or her own decision. The Committee is also



concerned that a number of federal statutes reinforce exclusionary tests of legal capacity and do not provide recognition of supported decision-making.

**28. The Committee recommends that the State party, in consultation with organizations of persons with disabilities and other service providers, take leadership in collaborating with provinces and territories to create a consistent framework for recognizing legal capacity and to enable access to the support needed to exercise legal capacity. It also recommends that the State party take steps to remove exclusionary provisions from federal statutes and to introduce provisions for supported decision-making in the Bank Act, the Income Tax Act and other statutes as appropriate.**

### Cyprus (2017)

33. The Committee notes with concern that the State party maintains the concept of substituted decision-making and guardianship across all legislation, such as regarding the administration of property and accessing judicial procedures.

**34. The Committee recommends that the State party, as a matter of urgency and in close collaboration with representative organizations of persons with disabilities, in line with article 4 (3) of the Convention:**

**(a) Bring the draft law on self-advocacy and supported decision-making fully into line with the Convention, accelerate its adoption and take all other legislative amendments necessary to abolish substituted decision-making and guardianship and ensure that the right to supported decision-making is established across all legislation in accordance with general comment No. 1 (2014) on equal recognition before the law;**

**(b) Allocate adequate human, technical and financial resources to support the transformation from the present paradigm to a new paradigm that is in line with the Convention, and being guided by, inter alia, general comment No. 1 (2014).**

### Honduras (2017)

27. Al Comité le preocupa que distintas leyes del Estado parte, al igual que el Código de Familia, que en el artículo 277 mantiene la figura de tutor y protutor, no armonizan con la Convención y discriminan y restringen la capacidad jurídica de las personas con discapacidad.

**28. En consonancia con el artículo 12 de la Convención y su observación general núm. 1 (2014) sobre igual reconocimiento como persona ante la ley, el Comité recomienda al Estado parte que derogue toda disposición legal que limite parcial o totalmente la capacidad jurídica de las personas con discapacidad y adopte medidas concretas para establecer un modelo de sistema de apoyo al proceso de toma de decisiones que respete la autonomía, voluntad y preferencias de las personas con discapacidad, que reemplace las formas de sustitución en la toma de decisiones.**

29. Le preocupan al Comité las restricciones que se imponen a ciertas personas con discapacidad respecto al derecho a ser propietarias y heredar bienes, controlar sus propios asuntos económicos o a recibir préstamos bancarios, hipotecas y otros, en igualdad de condiciones con las demás personas.

**30. El Comité recomienda al Estado parte que garantice a todas las personas con discapacidad el acceso en igualdad de condiciones con las demás personas a ser propietarias y heredar bienes, a créditos, hipotecas y toda la variedad de servicios financieros.**

### Iran (Islamic Republic of) (2017)

26. The Committee is concerned about the guardianship regime in relation to persons with psychosocial and/or intellectual disabilities set up in the civil law and the law of non-litigious matters. It is also concerned about the absence of supported decision-making for persons with disabilities.

**27. The Committee recommends that the State party:**

- (a) Review its civil and criminal legislation with the aim of withdrawing the guardianship regime, affecting persons with psychosocial and/or intellectual disabilities, and recognise full legal capacity of persons with disabilities on equal basis with others, in all areas of life;
- (b) Develop a system of supported decision-making for all persons with disabilities, in line with the Committee's general comment No. 1 (2014) on equal recognition before the law; and
- (c) Raise awareness among society, including families, about the contents and scope of the right to equal recognition before the law, and on how to respect the legal capacity of persons with disabilities.

### Jordan (2017)

25. The Committee notes with concern that articles 44 and 128 of the Civil Code (Law No. 43 of 1976) and articles 204 and 212 of the Personal Status Law (No. 36 of 2010) deprive persons with disabilities, in particular persons with intellectual and/or psychosocial disabilities, of their legal capacity, contrary to article 12 of the Convention.

**26. The Committee recommends that the State party amend its legislation, in particular the Civil Code and the Personal Status Law, so as to recognize the full legal capacity of persons with disabilities, notwithstanding their impairment, on an equal basis with others, and introduce supported decision-making mechanisms, in line with the Committee's general comment No. 1 (2014) on equal recognition before the law.**

### Republic of Moldova (2017)

24. The Committee notes with concern the discriminatory legal provisions in the Civil Code, particularly article 24, which allow for the deprivation of a person's legal capacity and the appointment of a guardian, on the grounds of psychosocial and/or intellectual disabilities. The Committee is concerned that current efforts to amend legislation in this regard may still not be in line with the Convention and that there are no mechanisms in place to replace the system of substituted decision-making with a supported decision-making regime.

**25. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

- (a) Repeal the discriminatory legal provisions in the Civil Code, including article 24;
- (b) Restore the full legal capacity of all persons with disabilities and review its guardianship system with the aim of introducing supported decision-making mechanisms;
- (c) Provide training, in consultation with organizations of persons with disabilities and the Ombudsman, at the national, regional and local levels for all stakeholders, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on existing good practices in supported decision-making.

### Bolivia (2016)

27. The Committee is concerned at the continued existence in the State party of regimes that limit partly or completely the legal capacity of persons with disabilities, and at the lack of any measures to repeal such regimes.

**28. In keeping with its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party repeal legal regimes that partly or completely limit legal capacity, and that it implement systems to support persons with disabilities in the exercise for their legal capacity, having proper regard for their will and preferences.**

### Colombia (2016)

30. The Committee is concerned that the State party's Civil Code and case law still provides for restrictions on the exercise of legal capacity for persons with disabilities and that, as a result, they are denied access to justice and free and informed consent.

**31. The Committee recommends that the State party repeal any provisions of the Civil Code and other legislation that partially or fully restrict the legal capacity of persons with disabilities, and take legal and administrative measures to provide the necessary support to persons with disabilities to fully exercise this right and to take decisions in such areas as health, sexuality and education, while fully respecting their will and preferences, as established in the Committee's general comment No. 1 (2014), on equal recognition before the law.**

32. The Committee is concerned about the provision made, in Decree No. 1500 of 2014 of the Medellín Mayoral Office, for judicial interdiction in programmes for persons with disabilities living in the streets.

**33. The Committee recommends that the State party repeal Decree No. 1500 of 2014 of the Medellín Mayoral Office, review programmes to provide persons with disabilities with access to the support they may require in the exercise of their legal capacity, and adopt a plan for housing and support services for persons with disabilities to enable them to live independently and be included in the community.**

### [Ethiopia \(2016\)](#)

25. The Committee is concerned that the legislative provisions of the Civil Code contradict article 12 of the Convention, in particular articles 339-388 and 1728 in chapter 3 ("Insane persons and infirm persons") and chapter 4 (Judicial interdiction), and article 740 of the Commercial Code. Those provisions restrict the right of persons with psychosocial disabilities and intellectual disabilities to the full enjoyment and exercise of their rights, including the right to marry, to act as witness and to vote, and parental rights and, for blind, deaf and deaf-blind persons, the right to carry out banking transactions.

**26. The Committee recommends that the State party repeal the legislative provisions that are non-compliant with article 12 of the Convention, in particular those provisions of the Civil Code (chaps. 3 and 4, arts. 339-388 and 1728) and Commercial Code (art. 740) and all forms of substituted decision-making. It also recommends that the State party explicitly recognize in law the full legal capacity of persons with disabilities with respect to all rights, including the right to marry, to enter into a contract, to vote, to own property, to a family, to carry out banking transactions and to have access to justice, in line with the Committee's general comment No. 1 (2014) on equal recognition before the law.**

27. The Committee is concerned that the provision of support is not effectively available in order to ensure the exercise of legal capacity of persons with disabilities on an equal basis with others.

**28. The Committee recommends that the State party ensure the provision of support in order for persons with disabilities to be able to exercise their legal capacity on an equal basis. It also recommends that the State party develop and implement supported decision-making models that respect the autonomy, will and preferences of the person and that it adopt safeguards against undue influence and conflict of interest, in line with the Committee's general comment No. 1.**

### [Guatemala \(2016\)](#)

31. The Committee notes with concern that a large number of persons with disabilities are subject to total or partial guardianship and therefore deprived of certain rights such as the right to vote, marry, found a family or manage assets and property. It is also concerned by the fact that the Civil Code provides for the restriction of the legal capacity of persons with disabilities and that, to date, no commitment has been made to bring it into line with the Convention.

**32. The Committee recommends that the State party take all appropriate measures to ensure that all persons with disabilities who have been deprived of their legal capacity can exercise all the rights enshrined in the Convention, as indicated in its general comment No. 1 (2014) on equal recognition before the law. The Committee also recommends that the State party**



**repeal the existing systems of total and partial guardianship, under which a person has no or limited legal capacity, and develop systems of supported decision-making to enable and promote the realization of the rights of persons with disabilities.**

33. The Committee is concerned that persons with disabilities who are institutionalized are automatically deprived of their legal capacity, with the director of the institution assuming the role of their guardian from then on.

**34. The Committee recommends that the State party ensure that all persons with disabilities who continue to be placed in institutions of any kind are not deprived of their legal capacity and are given access to systems of supported decision-making.**

### Italy (2016)

27. The Committee is concerned that substituted decision-making continues to be practised through the mechanism of administrative support "Amministrazione di Sostegno".

**28. The Committee recommends that the State party repeal all laws that permit substituted decision-making by legal guardians, including the mechanism of administrative support and the enactment and implementation of supported decision-making provisions, including the training of professionals in the justice, health and social sectors.**

### United Arab Emirates (2016)

23. The Committee is deeply concerned about legislative provisions that make it possible to restrict and even deny the legal capacity of persons with disabilities, for example the provisions in, among others, Federal Act No. 5 of 1985 (Civil Code), Federal Act No. 28 of 2005 and Federal Act No. 29 of 2006 as amended by Federal Act No. 14 of 2009 and the Criminal Code, including in relation to the right to marry. The Committee is also concerned that women in the State party, including women with disabilities, continue to be subjected to male guardianship.

**24. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party repeal regimes of substituted decision-making (among others, provisions of Federal Act No. 5 of 1985 (Civil Code), Federal Act No. 28 of 2005 and Federal Act No. 29 of 2006 as amended by Federal Act No. 14 of 2009 and the Criminal Code) and replace them by supported decision-making regimes that uphold the autonomy, will and preferences of persons with disabilities. The Committee also recommends that the State party abolish altogether the system of male guardianship of women, including women with disabilities.**

### Uruguay (2016)

25. Al Comité le preocupa que distintas leyes del Estado parte, en particular los artículos 37 y 80 de la Constitución de la República del Uruguay al igual que el Código Civil, Ley 17535 sobre personas sujetas a curaduría general, están en contradicción con la Convención y discriminan y restringen la capacidad jurídica de las personas con discapacidad.

**26. En consonancia con el artículo 12 de la Convención y su observación general No 1 (2014), el Comité recomienda al Estado parte que derogue toda disposición legal que limite parcial o totalmente la capacidad jurídica de las personas con discapacidad y adopte medidas concretas para establecer un modelo de sistema de apoyo al proceso de toma de decisiones que respete la autonomía, voluntad y preferencias de las personas con discapacidad que reemplace las formas de sustitución en la toma de decisiones.**

27. Le preocupan al Comité las restricciones que se imponen a personas con discapacidad respecto al derecho a ser propietarias y heredar bienes, controlar sus propios asuntos económicos o a recibir préstamos bancarios, hipotecas y otros, en igualdad de condiciones con las demás personas.

**28. El Comité recomienda al Estado parte que garantice a todas las personas con discapacidad el acceso, en igualdad de condiciones con las demás personas, a ser**

propietarias y heredar bienes, a créditos, hipotecas y toda la variedad de servicios financieros.

### Chile (2016)

23. Al Comité le preocupa la vigencia del Código Civil de 1857 que establece la incapacidad legal de personas con discapacidad, así como de la Ley núm. 18600 que regula el proceso de declaratoria de interdicción con base en la certificación de un psiquiatra.

**24. El Comité solicita al Estado parte que derogue toda disposición legal que limite parcial o totalmente la capacidad jurídica de las personas con discapacidad adultas, y adopte medidas concretas para establecer un modelo de toma de decisiones con apoyo que respete la autonomía, voluntad y preferencias de las personas con discapacidad, en armonía con el artículo 12 de la Convención y la observación general núm. 1 (2014) del Comité.**

25. Al Comité le preocupa que las personas con discapacidad no tengan derecho al consentimiento informado, particularmente aquellas declaradas interdictas o institucionalizadas por razón de discapacidad mental, en el caso de tratamientos médicos o intervenciones quirúrgicas cuyos efectos son irreversibles, tal como se dispone en el artículo 15 de la Ley núm. 20584.

**26. El Comité recomienda al Estado parte que revise y derogue las disposiciones que restringen el consentimiento libre e informado de todas las personas con discapacidad, incluyendo las que se encuentran declaradas interdictas y están bajo tutela, o quienes se encuentren institucionalizadas, y se adopten las regulaciones necesarias para el pleno ejercicio del consentimiento libre e informado, para actuar en todo tipo de intervenciones médicas o científicas.**

### Lithuania (2016)

25. The Committee is deeply concerned at the legal provisions permitting the denial or restriction of the legal capacity of persons with disabilities contrary to article 12 of the Convention, which thereby limit rights of persons with disabilities to give their free and informed consent for treatment, to marry, to found a family and to adopt and raise children.

**26. With reference to its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party repeal laws, policies and practices permitting guardianship and trusteeship for adults with disabilities and replace regimes of substituted decision-making with regimes of supported decision-making.**

### Portugal (2016)

28. The Committee is deeply concerned that in the State party there is a large number of persons with disabilities subjected to total or partial guardianship and, as such, deprived of certain rights, for instance the rights to vote, to marry, to found a family, and to manage assets and properties. It is also concerned that the current review of the Civil Code continues to include restrictions in legal capacity.

**29. The Committee recommends that the State party adopt appropriate measures to ensure that all persons with disabilities who have been deprived of their legal capacity may exercise all the rights set out in the Convention, including the right to vote, to marry, to found a family or to manage assets and property, as stated in its General Comment No 1 (2014) on equal recognition before the law. The Committee also recommends that the State party repeal the existing total and partial guardianship systems, which remove or limit the legal capacity of the individual, and develop supported decision-making systems which enable and promote the effective exercise of the rights of persons with disabilities, in accordance with article 12 of the Convention.**

### Serbia (2016)

21. The Committee is concerned about the incapacity and guardianship regime, which contravenes the Convention and the Committee's general comment No. 1. (2014) on equal

recognition before the law. It is concerned by the lack of transparent and effective safeguards and remedies. The Committee is especially concerned by the denial of the right to marry and to vote.

**22. The Committee recommends that the State party harmonize its legislation with the Convention with a view to replacing substituted decision-making with supported decision-making regimes which respect the person's autonomy, will and preferences, and establish transparent safeguards. The Committee further recommends that the State party provide training, in consultation with and the involvement of persons with disabilities, their representative organizations, and the Ombudsman, at the national, regional and local levels for all actors, including civil servants, judges, and social workers, on the recognition of the legal capacity of persons with disabilities and on good practices in supported decision-making.**

### [Slovakia \(2016\)](#)

38. The Committee is concerned that, despite recent legal and procedural reforms, all persons with disabilities are not given equal recognition before the law and are denied the right to vote, the right to marry and found a family, enjoy property and to retain fertility.

**39. The Committee recommends that the State party repeal section 10 (1) of the Civil Code, which provides for deprivation of legal capacity, and section 10 (2) of the Civil Code, which provides for restriction of legal capacity, and to introduce supported decision-making which respects the autonomy, will and preferences of the individual.**

### [Thailand \(2016\)](#)

25. The Committee is deeply concerned about substituted decision-making and guardianship regimes for persons with disabilities.

**26. In the light of its general comment No. 1 (2014) on equal recognition before the law, the Committee urges the State party to repeal the regimes of substituted decision-making enshrined in, among others, sections 28 and 1670 of the Civil Code, and replace them with supported decision-making regimes that uphold the autonomy, will and preferences of persons with disabilities.**

### [Uganda \(2016\)](#)

22. The Committee is concerned about legislation in the State party, including the Succession Act (2011), the Divorce Act (1904) and the Hindu Marriage and Divorce Act 1961, which restrict legal capacity of persons with disabilities on the basis of impairment, in particular persons with intellectual and/or psychosocial disabilities. It is also concerned about the de facto guardianship in families of persons with disabilities that deprive persons with disabilities of their ability to make choices in aspects such as marriage and inheritance.

**23. The Committee recommends that the State party:**

**(a) Eliminate formal and/or informal substituted decision-making regimes and replace them with a system of supported decision-making, in line with article 12 of the Convention and the Committee's general comment No. 1 (2014) on equal recognition before the law;**

**(b) Repeal legislation and eliminate practices that allow for deprivation of legal capacity on the basis of disability and adopt measures to prohibit deprivation of legal capacity on a customary basis;**

**(c) Raise awareness among persons with disabilities, their families and community members, the judiciary and legislature on supported decision-making and legal capacity of persons with disabilities, in consultation with organizations of persons with disabilities.**

### [Brazil \(2015\)](#)

24. The Committee is concerned that some of the State party's legislation still provides for substituted decision-making in some circumstances. This is contrary to article 12 of the Convention as elaborated in the Committee's general comment No. 1 (2014) on equal

recognition before the law. The Committee is also concerned that supported decision-making procedures require judicial approval and do not give primacy to the autonomy, will and preferences of persons with disabilities.

**25. The Committee urges the State party to withdraw all legal provisions that perpetuate the system of substituted decision-making. It also recommends that, in consultation with organizations of persons with disabilities and other service providers, the State party take tangible steps to replace the system of substitute decision-making with a supported decision-making model that upholds the autonomy, will and preferences of persons with disabilities in full conformity with article 12 of the Convention. It further recommends that all persons with disabilities currently under guardianship be kept duly informed about the new legal scheme and the exercise of the right to supported decision-making should be guaranteed in all cases.**

### European Union (2015)

36. The Committee notes with deep concern that across the European Union a large number of persons with disabilities have their full legal capacity restricted.

**37. The Committee recommends that the European Union take appropriate measures to ensure that all persons with disabilities deprived of their legal capacity can exercise all the rights enshrined in European Union treaties and in European Union legislation such as on access to justice, to goods and services, including banking and employment, and to healthcare, as well as voting and consumer rights, in line with the Convention, as elaborated in the Committee's general comment No. 1 (2014) on equal recognition before the law. It further recommends that the European Union step up efforts to foster research, data collection and exchange of good practices on supported decision-making in consultation with representative organisations of persons with disabilities.**

### Gabon (2015)

28. The Committee is deeply concerned about substituted decision-making and guardianship regimes for persons with disabilities.

**29. The Committee strongly recommends that the State party repeal regimes of substituted decision-making enshrined in articles 618 and 640 of the Civil Code, among others, and replace them by supported decision-making regimes which uphold the autonomy, will and preferences of persons with disabilities.**

### Kenya (2015)

23. The Committee is concerned that different laws of the State party such as the Children's Act 2001, the Mental Health Act of 1991 and the Marriage Law (2014) deprive persons with disabilities of their legal capacity, in particular persons with intellectual and/or psychosocial disabilities. It is also concerned about the de facto guardianship in families of persons with disabilities that deprive persons with disabilities of their ability to make choices in aspects such as buying food, renting a house or inheritance.

**24. The Committee recommends that the State party:**

**(a) Eliminate all forms of formal and informal substituted decision-making regimes and replace them with a system of supported decision-making, in line with the Committee's general comment No. 1 (2014) on equal recognition before the law;**

**(b) Repeal legislation and practices that allow for deprivation of legal capacity on the basis of impairment and adopt measures to prohibit deprivation of legal capacity on customary basis;**

**(c) Support and facilitate on going initiatives to implement article 12, including research by the Kenya National Commission on Human Rights and the models of supported decision making spearheaded by representative organizations of persons with disabilities; and**

**(d) Develop training and information campaigns to the public about the contents and scope of the right to legal capacity in all areas of life, considering the involvement of all stakeholders, including organizations of persons with disabilities and decision makers.**

### Mauritius (2015)

21. The Committee is concerned that the institution of substituted decision making and guardianship for persons with disabilities meeting the derogatory criteria listed in the Mauritius Civil Code as well as the deprivation of the rights of institutionalized persons with disabilities to entering into contracts, vote, marry, take decisions about health and access courts of law violate article 12 of the Convention.

**22. The Committee recommends that the State party abolish guardianship measures in law and practice and to ensure recognition of the legal capacity of persons with disabilities on an equal basis with others, and introduce supported decision-making mechanisms, in line with the Committee's general comment No. 1 (2014) on equal recognition before the law.**

### Qatar (2015)

23. The Committee is deeply concerned about substituted decision-making and guardianship regimes for persons with disabilities enshrined in, among others, Article 305 of the Criminal Code, article 34 of the Guardianship (Assets of Minors) Act No. 40 of 2004, and article 127 of the Civil Code (Act No. 22 of 2004) which restrict the exercise of rights including the right to vote, marry, family, give and/or withdraw free and informed consent, access to justice and choice of where and with whom to live.

**24. Recalling its general comment No. 1, the Committee recommends that the State party carry out a review of its legislation with a view to repeal regimes of substituted decision-making and replace them by supported decision-making regimes which uphold the autonomy, will and preferences of persons with disabilities.**

### Ukraine (2015)

26. The Committee is concerned that persons who were deprived of their legal capacity by a court decision lose all their rights, including the right to challenge their status before a court and that the State party's legislation does not provide for supported decision making mechanisms for such persons.

**27. The Committee calls upon the State party to replace its guardianship and mental health law with supported decision making mechanisms and abolish all deprivation of legal capacity both fully and partially in relation to all persons with disabilities. The Committee further recommends that the State party fully harmonize its provisions with article 12 of the Convention, as elaborated in the Committee's General Comment No. 1 and recognize the full legal capacity of all persons with all types of disability.**

### Cook Islands (2015)

23. The Committee is concerned that current legislation enables the appointment of a Trustee to make legal decisions on behalf of a person with intellectual and/or psychosocial disabilities.

**24. The Committee recommends that the State party:**

**(a) Repeal legislation in order to abolish guardianship measures in law and practice and ensure the recognition of the legal capacity of persons with disabilities on an equal basis with others, and introduce supported decision-making mechanisms, in line with the Committee's General Recommendation 1;**

**(b) Develop support mechanisms at community level to promote choice, autonomy and inclusion of children and adults with disabilities.**

### Croatia (2015)

17. The Committee is concerned that substituted decision making has not been replaced by supported decision making in law and in social practice, and that legislative amendments that are envisaged still consider the “best interest” of the person as opposed to his/her will and preferences and would maintain a modified regime of substitute decision-making. It is concerned that the Constitutional Court has suspended the new Family Act which abolished plenary guardianship.

**18. The Committee recommends that legislative measures are taken to abolish substitute decision making regimes in accordance with the Committee’s general comment No.1 (2014), and that it provide a wide range of measures which respect a person’s autonomy, will and preferences, including with respect to a person’s right, to give and withdraw their own individual informed consent for medical treatment, to access justice, to vote, to marry, to full parental rights, and to work. It further recommends taking tangible steps to introduce systems of supported decision making and to this end train social workers, legal professionals and public authorities on the rights enshrined in the Convention. Organizations of persons with disabilities as well as other relevant stakeholders should be involved in these legislative and policy processes.**

### Czech Republic (2015)

22. The Committee notes with concern that the new Civil Code still prescribes for the possibility of limiting one’s legal capacity and putting a person with disability under partial guardianship.

**23. The Committee calls upon the State party to amend its Civil Code and fully harmonize its provisions with article 12 of the Convention, as elaborated in the Committee’s General Comment No. 1 and recognize the full legal capacity of all persons with all types of disability, and to improve access to supported decision-making and implement the provision of the Civil Code.**

### Dominican Republic (2015)

20. The Committee notes with concern that the Civil Code establishes regimes on legal incapacity that are based on substitute decision-making and override the wishes of a person classified under the heading of “imbecility, mental derangement or insanity”, in violation of article 12 of the Convention.

**21. The Committee recommends that the State party do away with any regime that partially or totally deprives persons with disabilities of their legal capacity, that it amend the Civil Code to recognize the full legal capacity of all persons with disabilities, and that it put in place measures of supported decision-making in line with the Committee’s general comment No. 1 (2014) on article 12: Equal recognition before the law.**

22. The Committee is concerned at the fact that discriminatory practices towards people with disabilities are still to be found in some domestic banks and financial institutions, whereby persons with disabilities, notably visual disabilities, are denied independent management of their financial affairs.

**23. The Committee asks the State party to repeal any restriction on, or impediment to, access by persons with disabilities, on an equal basis with others, to banking services or the independent management of their financial affairs.**

### Germany (2015)

25. The Committee is concerned that the legal instrument of guardianship (“rechtliche Betreuung”), as outlined in and governed by the German Civil Code (BGB) is incompatible with the Convention.

**26. The Committee recommends that the State party:**



- (a) Eliminate all forms of substituted decision-making and replace them with a system of supported decision-making, in view of the Committee's General Comment No. 1 (2014);
- (b) Develop professional quality standards for supported decision-making mechanisms;
- (c) In close cooperation with persons with disabilities, provide training on article 12 of the Convention in line with Committee's General Comment No. 1 at the federal, regional and local levels for all actors, including civil servants, judges, social workers, health and social services professionals, and the wider community.

### Mongolia (2015)

21. The Committee is concerned about the inadequacy of the State party's legal measures for ensuring the rights of persons with disabilities, in particular, persons with intellectual and/or psychosocial disabilities, to make choices about their lives and enjoy legal capacity on an equal basis with others. The Committee is furthermore concerned that the State party permits guardians of persons with disabilities to make decisions regarding the property and personal issues of persons deemed persistently incapable of legal capacity due to psychological restrictions caused by disability. The Committee notes that such a system continues to promote substituted decision-making instead of supported decision-making, contrary to the provisions of article 12 of the Convention, as elaborated in the Committee's general comment No. 1 (2014) on equal recognition before the law.

**22. The Committee urges the State party to ensure legal capacity for persons with disabilities, including: to choose where and with whom they want to live, to vote for the political party they prefer, to have their health care decisions respected, to control their own financial affairs and to have access to cinemas and other leisure and cultural activities. The Committee recommends that the State party repeal provisions of the Civil Code to move from substitute decision-making to supported decision-making, which respects the person's autonomy, will and preferences and is in full conformity with article 12 of the Convention and general comment No. 1, including with respect to the individual's right to give and withdraw informed consent for medical treatment, among others: to have access to justice, to vote, to marry, to exercise parental rights, to work and to choose his or her place of residence. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on the mechanisms of supported decision-making.**

### Turkmenistan (2015)

25. The Committee is concerned that the Family Code, which governs matters of guardianship, tutorship and wardship, continues to advance substituted decision-making instead of making further steps towards supported decision-making, contrary to the provisions of article 12 of the Convention and the adopted General Comment on this article. It is also concerned at the lack of transparent and clear distinctions among the legal institutions relevant to legal capacity as well as information on the existing safeguards and remedies in case of violation of the right to legal capacity of persons with disabilities.

**26. The Committee recommends that the State party harmonize its legislation with the Convention with a view to replacing substituted decision-making with supported decision-making regimes which respects the person's autonomy, will and preferences, including transparent safeguards.**

### New Zealand (2014)

21. The Committee notes the recent work on examining supported decision-making regimes in New Zealand.

**22. The Committee recommends that the State party take immediate steps to revise the relevant laws and replace substituted decision-making with supported decision-making.**



This should provide a wide range of measures that respect the person's autonomy, will and preferences, and is in full conformity with article 12 of the Convention, including with respect to the individual's right, in his or her own capacity, to give and withdraw informed consent, in particular for medical treatment, to access justice, to marry, and to work, among other things, consistent with the Committee's general comment No. 1 (2014) on equal recognition before the law.

### [Denmark \(2014\)](#)

32. The Committee notes that the Legal Incapacity and Guardianship Act continues to allow for substituted decision-making, thereby restricting the individual's exercise of rights such as the right to vote, access to justice, and consent to medical treatment.

**33. The Committee recommends that the State party review the Legal Incapacity and Guardianship Act and incorporate into legislation supported decision-making, which respects the person's rights, will and preferences, in full conformity with article 12 of the Convention, which includes the individual's right to give and withdraw informed consent for medical treatment, to have access to justice, to vote, to marry and to work.**

### [Republic of Korea \(2014\)](#)

21. The Committee is concerned that the new adult guardianship system, which was introduced in July 2013, permits guardians to make decisions regarding the property and personal issues of persons deemed persistently incapable of managing tasks due to psychological restrictions caused by disease, disability or old age. The Committee notes that such a system continues to promote substituted decision-making instead of supported decision-making, contrary to the provisions of article 12 of the Convention, as elaborated in the Committee's general comment No. 1 (2014) on equal recognition before the law.

**22. The Committee recommends that the State party move from substitute decision-making to supported decision-making, which respects the person's autonomy, will and preferences and is in full conformity with article 12 of the Convention and general comment No. 1, including with respect to the individual's right to give and withdraw informed consent for medical treatment, to have access to justice, to vote, to marry, to work and to choose his or her place of residence. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on the mechanisms of supported decision-making.**

### [Belgium \(2014\)](#)

23. The Committee commends the State party's efforts to reform legislation on legal capacity. It notes the adoption of the new Act reforming legal incapacity regimes, but is concerned that the new law continues to adhere to a substitute decision-making model and does not provide for the right to supported decision-making.

**24. The Committee recommends that the State party take immediate steps to revise the Act of 17 March 2013 in view of the Committee's general comment No. 1 (2014), and allocate sufficient financial and human resources to provide for supported decision-making and enable justices of the peace to take decisions on a case-by-case basis, as required by the law.**

### [Ecuador \(2014\)](#)

24. The Committee is concerned that the State party's civil legislation provides for a substitute decision-making model through the use of roles such as guardians and wards, and that there is no immediate plan to reform the Civil Code and the Code of Civil Procedure to include a supported decision-making model, as recommended in general comment No. 1 (2014) on equal recognition before the law.

**25. The Committee recommends that the State party establish a working group with representatives of independent organizations of persons with disabilities in order to carry out a timely review of civil legislation and introduce supported decision-making mechanisms. It also recommends that the State party draw up an agenda, with a timetable, for the implementation of the new plan.**

### Mexico (2014)

23. The Committee is concerned at the lack of measures to repeal the declaration of legal incompetence and the limitations on the legal capacity of a person on the grounds of disability. It is also concerned at the lack of social awareness in this respect and the reluctance of some justice officials to put into effect the recommendations made by the Committee in its general comment No. 1 on equal recognition before the law (2014).

**24. The Committee urges the State party to suspend any legislative reform that would perpetuate a system of substitute decision-making and to take steps to adopt laws and policies that replace the substitute decision-making system with a supported decision-making model that upholds the autonomy and wishes of the persons concerned, regardless of the degree of disability. At the same time, it urges the State party to review all federal and state legislation in order to eliminate any restriction of rights stemming from a declaration of legal incompetence or on the grounds of a person's disability. It recommends that the State party take steps to train the authorities and society regarding the right to legal capacity of persons with disabilities, on the basis of the recommendations made by the Committee in its general comment No. 1 (2014).**

### Sweden (2014)

33. Even though declarations of incapacity have been completely abolished, the Committee is concerned that the appointment of an administrator is a form of substituted decision-making.

**34. The Committee recommends that the State party take immediate steps to replace substituted decision-making with supported decision-making and provide a wide range of measures which respect the person's autonomy, will and preferences and are in full conformity with article 12 of the Convention, including with respect to the individual's right, in his or her own capacity, to give and withdraw informed consent for medical treatment, to have access to justice, to vote, to marry and to work.**

### Azerbaijan (2014)

26. The Committee is concerned that the Civil Code, which governs matters of guardianship and trusteeship, continues to advance substituted decision making instead of supported decision-making contrary to the provisions of article 12 of the Convention restricting the exercise of rights such as the right to vote and access to justice.

**27. The Committee recommends that the State party amend the Civil Code with a view to replacing substituted decision-making with supported decision-making for persons with disabilities, and ensure that persons with disabilities exercise all rights including the right to vote and adopt among others. The Committee recommends that supported decision-making structures be introduced which fully respect the person's autonomy, will and preferences, and be in full conformity with article 12 of the Convention in the exercise of his or her rights under the Convention.**

### Costa Rica (2014)

21. The Committee expresses its concern about the continuing existence of such procedures as interdiction and the declaration of mental insanity in respect of persons with disabilities, and the resulting restrictions on the exercise of other rights, including the right to vote and the right to have a home and found a family.

**22. The Committee urges the State party to approve the bill on the personal autonomy of persons with disabilities (No. 17507), to revise and repeal article 91 of the Constitution and**

to repeal the provisions of the Civil Code and the Code of Civil Procedure governing incapacity and insanity proceedings on the basis of disability. It recommends that the State party establish safeguards for persons with disabilities and develop a model for support in the decision-making process that takes due account of the individual's autonomy, free will and preferences, and of their rights, including the right to free and informed consent to receive medical treatment, the right of access to justice, and the rights to vote, to marry and to choose their place of residence.

23. The Committee notes with concern that it is banking practice not to consider persons with disabilities creditworthy.

**24. The Committee urges the State party to ensure that persons with disabilities have access to loans, mortgages and a full range of financial services on an equal basis with others.**

### [Australia \(2013\)](#)

24. The Committee notes that the Australian Law Reform Commission has been recently commissioned to inquire into barriers to equal recognition before the law and legal capacity for persons with disabilities. The Committee is however concerned about the possibility of maintaining the regime of substitute decision-making, and that there is still no detailed and viable framework for supported decision-making in the exercise of legal capacity.

**25. The Committee recommends that the State party uses effectively the current inquiry process to take immediate steps to replace substitute decision-making with supported decision-making and provides a wide range of measures which respect the person's autonomy, will and preferences and is in full conformity with article 12 of the Convention, including with respect to the individual's right, in his/her own capacity, to give and withdraw informed consent for medical treatment, to access justice, to vote, to marry, and to work.**

26. The Committee further recommends that the State party provides training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges, and social workers, on the recognition of the legal capacity of persons with disabilities and on the primacy of supported decision-making mechanisms in the exercise of legal capacity.

### [Austria \(2013\)](#)

27. In 2012, approximately fifty-five thousand Austrians were under guardianship, with half with respect to all aspects of life. This is concerning, particularly because the Austrian guardianship laws do appear to be old fashioned and out of step with article 12 of the Convention. The Committee commends the State party for introducing a pilot program under the national action plan on supported decision-making.

**28. The Committee recommends that substituted decision making be replaced with supported decision making. The Committee recommends that Austria do more to ensure that persons with disabilities have access to supported decision-making and are not placed under guardianship. The Committee recommends that supported decision making structures should respect the person's autonomy, will and preferences, and be in full conformity with article 12 of the Convention, including with respect to the individual's right, in his/her own capacity, to give and withdraw informed consent for medical treatment, to access justice, to vote, to marry, to work, and to choose a place of residence. The Committee also recommends that disabled persons organizations be involved in all aspects of the pilot program on supported decision-making. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations of persons with disabilities, at the national, regional and local levels for all actors, including civil servants, judges, and social workers, on the recognition of the legal capacity of persons with disabilities and on mechanisms of supported decision-making.**

### [El Salvador \(2013\)](#)

27. The Committee is concerned at the legal disqualification arising in civil and family law when persons with intellectual, psychosocial, hearing or visual impairments are interdicted or declared legally incapable, limiting some of their rights. The Committee regrets the lack of information provided on persons with disabilities placed in the system of guardianship or protection, and on the propriety of the processes for lifting interdictions. The Committee notes with concern that the Public Notaries Act limits possibilities for “blind”, “mute” and “deaf” persons and those who “are not in full command of their mental faculties” to work as notaries.

**28. The Committee recommends that the State party replace the rules on interdiction based on disability by a decision-making support mechanism that respects the autonomy, will and preferences of the individual, and that it adopt immediate measures, in cooperation with organizations of persons with disabilities, to set up adequate decision-making support services, in keeping with the provisions of the Convention. The Committee requests that the State party abolish the restriction on persons with disabilities working as notaries and provide the necessary reasonable accommodation for them to exercise this profession.**

### [Paraguay \(2013\)](#)

29. The Committee is concerned at the State party’s mechanism for declaring persons with disabilities legally incapable and regrets the lack of understanding in the State party concerning the scope of article 12 of the Convention. The Committee is also concerned at the lack of data and information on persons with disabilities who have been declared legally incapable since the declaration of incapacity is an impediment to respect for the legal capacity of persons with disabilities, and the full exercise of that capacity, in all areas of life, including, but not limited to, matters of property.

**30. The Committee urges the State party to repeal the legal provisions of the Civil Code governing the procedure for declaring legal incapacity on grounds of disability and to set up an independent review mechanism with the aim of fully restoring the rights of those who have been declared legally incapable. It also recommends that the State party set up safeguards for persons with disabilities and develop a model for support in the decision-making process that takes due account of the individual’s autonomy, free will and preferences, and of their rights, including the right to free and informed consent to medical treatment, the right of access to justice, and the rights to vote, to marry and to choose their place of residence.**

### [Argentina \(2012\)](#)

19. The Committee is deeply concerned about the inconsistencies observed in both the laws already in force and bills that are now being considered in the State party which are based, or continue to be based, on a substitute decision-making model that overrides the wishes of the persons concerned, which clearly runs counter to article 12 of the Convention. The Committee is also concerned at the reluctance of some justice officials to apply the rules that set limits on a court’s discretion in restricting the legal capacity of persons with disabilities.

**20. The Committee urges the State party to launch an immediate review of all current legislation that is based on a substitute decision-making model that deprives persons with disabilities of their legal capacity. At the same time, the Committee urges the State party to take steps to adopt laws and policies that replace the substitute decision-making system with a supported decision-making model that upholds the autonomy, wishes and preferences of the persons concerned. In addition, the Committee recommends that training workshops on the human rights model of disability be organized for judges to encourage them to adopt the supported decision-making system instead of granting guardianships or trusteeships.**

21. The Committee expresses concern at the inconsistencies existing between the proposal for the amendment and standardization of the Civil and Commercial Code and the Convention, as the concept of judicial prohibition would be retained and judges would have complete

discretion to appoint a trustee or decide on what decision-making support tools are needed by persons with disabilities.

**22. The Committee urges the State party to ensure that the concept of judicial prohibition does not figure in the proposal for the amendment and standardization of the Civil and Commercial Code and to guarantee the effective participation in the review process of organizations representing persons with disabilities.**

### China (2012)

21. The Committee is concerned about the system for establishing legal guardianship, which is not in compliance with art. 12 CRPD. It takes note of the complete absence of a system of supported decision-making measures which recognize the rights of persons with disabilities to make their own decisions and to have their autonomy, will and preferences respected.

**22. The Committee urges the state party to adopt measures to repeal the laws, policies and practices which permit guardianship and trusteeship for adults and take legislative action to replace regimes of substituted decision-making by supported decision making, which respects the person's autonomy, will and preferences, in the exercise of one's legal capacity in accordance with Article 12 of the CRPD. In addition, the Committee recommends the state party in consultation with DPOs to, prepare a blueprint for a system of supported decision-making, and legislate and implement it which includes:**

- a. Recognition of all persons' legal capacity and right to exercise it;
- b. Accommodations and access to support where necessary to exercise legal capacity;
- c. Regulations to ensure that support respects the person's autonomy, will and preferences and establishment of feedback mechanisms to ensure that support is meeting the person's needs;
- d. Arrangements for the promotion and establishment of supported decision-making;

### Hungary (2012)

25. The Committee takes note of the fact that the State party is undertaking efforts to harmonize its national legislation with the provisions of article 12 of the Convention. It welcomes the plans to provide for supported decision-making in the drafting of the new Civil Code. The Committee however remains concerned about the possibility of maintaining a modified regime of substitute decision-making in the drafting of the new Civil Code. The Committee is also concerned that the process of drafting of the new Civil Code has not been used to provide for a detailed and viable framework for supported decision-making in the exercise of legal capacity in accordance with the provisions of article 12 of the Convention.

**26. The Committee recommends that the State party use effectively the current review process of its Civil Code and related laws to take immediate steps to derogate guardianship in order to move from substitute decision-making to supported decision-making, which respects the person's autonomy, will and preferences and is in full conformity with article 12 of the Convention, including with respect to the individual's right, on their own, to give and withdraw informed consent for medical treatment, to access justice, to vote, to marry, to work, and to choose their place of residence. The Committee further recommends the State party to provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges, and social workers on the recognition of the legal capacity of persons with disabilities and on mechanisms of supported decision-making.**

### Peru (2012)

22. The Committee is concerned at reports that a number of persons with disabilities, especially those living in rural areas and in long-term institutional settings, do not have identity cards and, sometimes, have no name.

**23. The Committee urges the State party to promptly initiate programmes in order to provide identity documents to persons with disabilities, including in rural areas and in long-term**



**institutional settings, and to collect complete and accurate data on people with disabilities in institutions who are currently undocumented and/or do not enjoy their right to a name.**

24. The Committee notes with concern that legislation of the State party (article 7 of the Constitution and articles 564 and 565 the Civil Code) is not in conformity with article 12 of the Convention, as it establishes substitute decision-making instead of supported decision-making and permits the suspension of civil rights of persons with disabilities in cases of judicial interdiction. The Committee is also concerned at the lack of information concerning the number of persons who have been subjected to guardianship and trusteeship and the lack of legal remedies and safeguards, such as independent review and right to appeal, that are in place in order to revoke those decisions.

**25. The Committee recommends that the State party abolish the practice of judicial interdiction and review the laws allowing for guardianship and trusteeship to ensure their full conformity with article 12 of the Convention and take action to replace regimes of substitute decision-making by supported decision-making, which respects the person's autonomy, will, and preferences.**

26. The Committee is concerned that the State party's Civil Code denies the ability to exercise the right to marry to the "deaf-mute, blind-deaf and blind-mute persons, as well as to mentally handicapped persons and those suffering from mental deterioration".

**27. The Committee urges the State party to amend the Civil Code in order to adequately guarantee the exercise of civil rights, in particular the right to marry, to all persons with disabilities.**

### [Spain \(2011\)](#)

33. The Committee notes that Act 26/2011 allows a period of one year following its entry into force for the presentation of a bill to govern the scope and interpretation of article 12 of the Convention. The Committee is further concerned that no measures have been taken to replace substitute decision-making by supported decision-making in the exercise of legal capacity.

**34. The Committee recommends that the State party review the laws allowing for guardianship and trusteeship and take action to develop laws and policies to replace regimes of substitute decision-making by supported decision-making, which respects the person's autonomy, will and preferences. It further recommends that training be provided on this issue for all relevant public officials and other stakeholders.**

### [Tunisia \(2010\)](#)

22. The Committee is concerned that no measures have been undertaken to replace substitute decision-making by supported decision-making in the exercise of legal capacity.

**23. The Committee recommends that the State party review the laws allowing for guardianship and trusteeship and take action to develop laws and policies to replace regimes of substitute decision-making by supported decision-making. It further recommends that training be provided on this issue to all relevant public officials and other stakeholders.**