



IDA's Compilation of CRPD Committee's Concluding Observations

*Article 14 CRPD
(Liberty and security of person)*

October 2022

Article 14 - Liberty and security of person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
 - a) Enjoy the right to liberty and security of person;
 - b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.

**Bangladesh
China
Indonesia
Japan
Lao People's Democratic Republic
New Zealand
Republic of Korea
Singapore
Hungary
Jamaica
Mexico
Switzerland
Venezuela
Djibouti
France
Estonia
Albania
Australia
Ecuador
El Salvador
Greece
India
Iraq
Kuwait
Myanmar
Cuba
Niger
Norway
Rwanda
Saudi Arabia
Senegal
Spain
Turkey
Vanuatu
Algeria
Bulgaria
Malta
Philippines
Poland
South Africa
The Former Yugoslav Republic of Macedonia
Nepal
Oman
Russian Federation
Seychelles
Slovenia
Sudan
Latvia
Luxembourg
Montenegro
Morocco
Panama
United Kingdom of Great Britain and Northern Ireland
Armenia**

**Bosnia and Herzegovina
Canada
Cyprus
Honduras
Iran (Islamic Republic of)
Jordan
Republic of Moldova
Bolivia
Colombia
Ethiopia
Guatemala
Italy
United Arab Emirates
Uruguay
Chile
Lithuania
Portugal
Serbia
Slovakia
Thailand
Uganda
Brazil
European Union
Gabon
Kenya
Mauritius
Qatar
Ukraine
Cook Islands
Croatia
Czech Republic
Dominican Republic
Germany
Mongolia
Turkmenistan
New Zealand
Denmark
Republic of Korea
Belgium
Ecuador
Mexico
Sweden
Azerbaijan
Costa Rica
Australia
Austria
El Salvador
Paraguay
Argentina
China
Hungary
Peru
Spain
Tunisia**

Bangladesh

29. The Committee is concerned that persons with disabilities, especially those with intellectual and/or psychosocial disabilities, are still subjected to frequent harassment, arrest and detention through the misapplication of existing laws. It is also concerned about cases of confinement and shackling of persons with intellectual disabilities by family members at home and about detention and treatment of persons with intellectual and/or psychosocial disabilities, without their free and informed consent.

30. The Committee recalls its guidelines on the right to liberty and security of persons with disabilities and recommends that the State party:

(a) Revise section 54 of the Code of Criminal Procedure 1898, the Metropolitan Police Ordinances, and the Vagabond and Homeless Persons Rehabilitation Act 2011, to prevent unwarranted harassment, arrest, detention, unlawful restraint and confinement of persons with disabilities, particularly women with disabilities and persons with intellectual and/or psychosocial disabilities, including also revising the Penal Code 1860 and the Domestic Violence (Prevention and Protection) Act of 2010;

(b) Take concrete measures to prevent the confinement of persons with intellectual disabilities within the home and take measures to collect statistical data, disaggregated by age, gender and disability, on the number of persons with disabilities who are detained without their consent;

China

32. The Committee notes with concern the discriminatory provisions of Art. 9 of the Law on the Protection of Persons with Disabilities, which allows for the arbitrary deprivation of liberty of persons with psychosocial disabilities, forced institutionalisation and non-consensual psychiatric treatment, on the grounds of family responsibility and on the grounds of medical assessments and diagnoses such as "severe mental disorder". The Committee is further concerned about reports of Uyghur and other Muslim minority persons with disabilities who are detained in vocational education and training centres without support to ensure their safety and to meet all their disability-related needs.

33. The Committee recommends that the State party:

(a) Take note of the Committee's guidelines on article 14 of the Convention (2015) (see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I), and repeal provisions and practices that allow for the deprivation of liberty of adults and children with disabilities on the basis of actual or perceived impairment;

(b) Revise and repeal all discriminatory legal provisions legitimizing the involuntary treatment and deprivation of liberty of persons on the grounds of their psychosocial disability and perceived dangerousness, and ensure that any treatment is always based on the free and informed consent of the person concerned;

(c) Take prompt action to release Uyghur and other Muslim minority persons with disabilities deprived of their liberty in vocational education and training centres, and immediately ensure that all disability-related needs of persons with disabilities still in detention are met.

Indonesia

34. The Committee is concerned about deprivation of liberty on the basis of impairment, in particular for persons with psychosocial disabilities or intellectual disabilities.

35. The Committee recalls its guidelines on the right to liberty and security of persons with disabilities and recommends that the State party repeal all provisions that allow for the deprivation of liberty on the basis of impairment, including within Law No. 8 of 2016 on Persons with Disabilities and Law No. 18 of 2014 on Mental Health, and provisions and practices at provincial and district levels.

Japan

31. The Committee is concerned about:

(a) Legislation that allows the involuntary commitment in psychiatric hospitals and involuntary treatment of persons with disabilities, based on their perceived or actual impairments or dangerousness, as legitimated by the Act on Mental Health and Welfare for the Mentally Disabled;

(b) Lack of safeguards to protect the right to informed consent of persons with disabilities, including vagueness of the definition of informed consent, as regards the hospitalization.

32. The Committee recalls its Guidelines on article 14 of the Convention (2015) and the recommendations issued by the Special Rapporteur on the Rights of Persons with Disabilities (A/HRC/40/54/Add.1) and calls upon the State party to:

(a) Recognise the involuntary hospitalisation of persons with disabilities as discrimination on the grounds of impairment, amounting to the deprivation of liberty, and repeal all legal provisions allowing for the deprivation of liberty through involuntary hospitalisation of persons with disabilities on the basis of actual or perceived impairments or dangerousness;

(b) Repeal all legal provisions that legitimize non-consensual psychiatric treatment on the grounds of perceived or actual impairments, and establish a monitoring mechanism to ensure that persons with disabilities are not subjected to forced treatment and have access to the same range, quality and standard of health care on equal basis with others;

(c) Ensure safeguards, including advocacy, legal and all other necessary assistance, to protect the right to free and informed consent of all persons with disabilities, regardless their impairment.

Lao People's Democratic Republic

24. The Committee is concerned about:

(a) The absence of statistical data on the number of persons with disabilities deprived of their liberty and placed in institutional settings;

(b) The information provided by the State Party for the Global Study on Children Deprived of Liberty, indicating that in 2018, there were 1,010 children with disabilities living in specialized institutions across the country;

(c) Reports of confinement of persons with disabilities, in particular persons with intensive support requirements, at home.

25. The Committee recommends that the State party take note of the Committee's guidelines on article 14 of the Convention (2015) (see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I), and:

(a) Collect data of persons with disabilities deprived of liberty and placed in institutional settings, disaggregated by age, gender, and type of disability, on an annual basis;

(b) Repeal all legislation and practices that allow for the deprivation of liberty of adults and children with disabilities on the basis of actual or perceived impairment or that authorizes institutionalization or involuntary hospitalization of persons with disabilities;

(c) Prevent the confinement of persons with disabilities within their homes and provide for human rights-based support and community services for all persons with disabilities on an equal basis with others.

New Zealand

25. The Committee welcomes the commitment to repeal and replace the Mental Health (Compulsory Assessment and Treatment) Act of 1992, but is concerned that new mental health legislation may still allow for involuntary detention and compulsory treatment and may not actively involve the participation of persons with disabilities, particularly persons with psychosocial disabilities through their representative organisations in the development process;

26. The Committee recalls its guidelines on the right to liberty and security of persons with disabilities[1] and recommends that the State party ensure that new mental health legislation embeds the Convention principles and standards to ensure that there are no provisions that allow for the deprivation of liberty on the basis of impairment or that allow for compulsory

treatment, and that the development process actively involves persons with disabilities, particularly persons with psychosocial disabilities.

27. The Committee is concerned about:

Legislation that allows for involuntary detention and compulsory treatment on the basis of impairment, including the Substance Addiction (Assessment and Treatment) Act 2017;

That The Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, which includes extensions to compulsory care orders which allows persons with intellectual disabilities to be detained for periods of time exceeding the maximum length of the sentence they would be liable to in the criminal justice system.

28. The Committee recalls its guidelines on the right to liberty and security of persons with disabilities and recommends that the State party:

Repeal all provisions that allow for the deprivation of liberty on the basis of impairment, including the Substance Addiction (Assessment and Treatment) Act 2017;

Repeal provisions within the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 which allow for persons with disabilities to be detained for periods of time exceeding the maximum length of the sentence they would be liable to in the criminal justice system.

Republic of Korea

31. The Committee remains concerned that persons with disabilities, especially those with psychosocial and/or intellectual disabilities, are still subjected to laws that deprive them of their liberty on the basis of impairment, and that there is a lack of information on the measures taken to ensure that those persons are not subjected to arbitrary treatment, including confinement.

32. The Committee recalls its guidelines on the right to liberty and security of persons with disabilities and recommends that the State party:

(a) Repeal all relevant legislative provisions, including the provisions of Korean Civil Act on Adult Guardianship and the Act on Mental Health Promotion and Welfare Services for People with Mental Disorder allowing for the involuntary deprivation of liberty on the grounds of impairment and perceived dangerousness to themselves or others, introduce legislation that ensures non-discrimination through, for example, procedural accommodation for persons with disabilities, including during interrogation and detention, explicitly prohibit the forced institutionalization of persons with disabilities on the ground of impairment, and restore the rights of persons with psychosocial disabilities to liberty and security of person, on an equal basis with others;

(b) Establish a monitoring mechanism to ensure that persons with psychosocial and/or intellectual disabilities are not subjected to arbitrary and forced treatment, particularly treatment that results in confinement.

Singapore

29. The Committee is concerned that persons with disabilities, especially persons with psychosocial disabilities and persons with intellectual disabilities, may be deprived of their liberty on the basis of their impairment.

30. The Committee recalls its Guidelines on the right to liberty and security of persons with disabilities and recommends that the State party:

(a) Repeal all legislative provisions allowing for the involuntary deprivation of liberty of persons with psychosocial disabilities and persons with intellectual disabilities on the grounds of their impairment or their perceived dangerousness to themselves or others;

(b) Introduce legislation ensuring non-discrimination in all procedures in connection with the deprivation of liberty, guaranteeing, for example, procedural accommodation for persons with disabilities, including for the preparation of proceedings, during interrogation and for detention-related complaints;

- (c) Explicitly prohibit institutionalization of persons with disabilities, particularly persons with psychosocial disabilities and persons with intellectual disabilities, and effectively protect their rights to liberty and security of person, on an equal basis with others;
- (d) Provide training to health professionals, administrative and judicial officers, law enforcement staff and prison officials on the rights of persons with disabilities and on monitoring mechanisms to ensure the rights of persons with disabilities in all facilities depriving persons with disabilities of their liberty.

Hungary

28. The Committee notes with concern:

- (a) The discriminatory provisions of Act CLIV of 1997 on health care, which allows for the arbitrary deprivation of liberty of persons with psychosocial disabilities and placement in mental health facilities on the basis of impairment and perceived dangerousness;
- (b) The lack of legal safeguards for ensuring the rights to liberty and security of persons in psychiatric institutions, including in forensic psychiatric institutions, in which the detention and medical treatment of persons with disabilities can endure indefinitely, even when the periodic judicial review deems treatment and detention no longer necessary;
- (c) The lack of availability and accessibility of human rights-based mental health services across the State party;
- (d) The absence of accessibility and reasonable accommodation for persons with disabilities in penitentiary institutions, particularly for deaf persons and women and children with disabilities.

29. The Committee recommends that the State party:

- (a) Review and repeal all discriminatory legal provisions legitimizing the involuntary treatment and deprivation of liberty of persons on the grounds of their psychosocial disability and perceived dangerousness, and ensure that any treatment is always based on the free and informed consent of the person concerned;
- (b) Ensure legal safeguards for the rights to liberty and security of persons in psychiatric institutions, including in forensic psychiatric institutions;
- (c) Develop community and human rights-based mental health services and support across the State party;
- (d) Guarantee full accessibility and procedural accommodation, including augmentative and alternative modes of communication, Braille and sign language, for all persons with disabilities at penitentiary institutions.

30. The Committee further calls upon the State party to be guided by its obligations under article 14 of the Convention, and the Committee's guidelines on the right to liberty and security of persons with disabilities¹ in relation to the draft additional protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Oviedo Convention), and that it oppose its adoption. The State party should implement its obligations under the Oviedo Convention in a manner compatible with the human rights model of disability.

Jamaica

28. The Committee is concerned that persons with disabilities, especially those with psychosocial or intellectual disabilities, are still subjected to laws that deprive them of their liberty on the basis of impairment, and that there is a lack of information on the measures taken to ensure that those persons are not subjected to arbitrary treatment, including confinement. It is also concerned at the lack of monitoring mechanisms to ensure the rights and reasonable accommodation of persons with disabilities in correctional facilities.

29. The Committee recalls its guidelines on the right to liberty and security of persons with disabilities² and recommends that the State party:

¹ [A/72/55](#), annex.

² [A/72/55](#), annex.

- (a) Repeal all relevant legislative provisions allowing for the involuntary deprivation of liberty on the grounds of impairment and perceived dangerousness to themselves or others, introduce legislation that ensures non-discrimination through, for example, procedural accommodation for persons with disabilities, including during interrogation and detention, explicitly prohibit the forced institutionalization of persons with disabilities, particularly persons with psychosocial or intellectual disabilities and older persons with disabilities, and restore the rights of persons with psychosocial disabilities to liberty and security of person, on an equal basis with others;**
- (b) Establish a monitoring mechanism to ensure that persons with psychosocial or intellectual disabilities are not subjected to arbitrary and forced treatment, particularly treatment that results in confinement;**
- (c) Provide in its next periodic report statistical data on the number of persons with psychosocial or intellectual disabilities and older persons with disabilities who are still hospitalized or institutionalized without their consent;**
- (d) Provide training to health professionals, law enforcement staff and prison officials on the rights and dignity of persons with disabilities and on monitoring mechanisms to ensure the rights of persons with disabilities in correctional and detention facilities.**

Mexico

39. The Committee notes with concern that:

- (a) Persons with intellectual or psychosocial disabilities have frequently been the subject of declarations of non-liability in the context of criminal proceedings, in the absence of procedural safeguards;
- (b) The Code of Criminal Procedure maintains non-liability by reason of disability as a concept, and that detention measures for persons with disabilities may exceed those of regular criminal procedures.

40. With reference to its previous concluding observations, the Committee recommends that the State party:

- (a) Guarantee all due process rights for persons with disabilities in processes leading to deprivation of liberty, in particular in the context of criminal proceedings, whether as indicted persons, victims or witnesses, and provide procedural accommodation, adjustments, counselling and personal assistance in such proceedings;³**
- (b) Provide training for officials in the justice and prison systems on the requirements of the Convention in processes leading to the deprivation of liberty of persons with disabilities.**

Switzerland

29. The Committee notes with concern:

- (a) The legal provisions that allow for the involuntary detention and treatment of persons with intellectual or psychosocial disabilities, and the increase in the number of persons under care-related hospitalization;
- (b) The placement of children in institutions by child protection authorities and their placement in psychiatric facilities through adult protection provisions;
- (c) The lack of a clear position opposing the draft additional protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine.

30. The Committee recommends that the State party:

- (a) Review and repeal all legal provisions, policies and practices that allow for the involuntary deprivation of liberty on the basis of disability;**
- (b) Prevent the placement of children with disabilities in institutions, psychiatric facilities or care-related hospitalization, and cease the application of adult protection provisions for children;**

³ See the Committee's decision in the case of Arturo Medina Vela (CRPD/C/22/D/32/2015).

(c) Be guided by its obligations under article 14 of the Convention and the Committee's guidelines on the right to liberty and security of persons with disabilities,⁴ and oppose the adoption of the draft additional protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine. The State party should implement its obligations under the Convention on Human Rights and Biomedicine in a manner compatible with the human rights model of disability.

Venezuela

26. The Committee is concerned that:

- (a) The amendment of the Criminal Code and the updates in relation to mental health and family issues are still being debated;
- (b) Following the closure of psychiatric hospitals and other institutions, the fate of the persons with psychosocial or intellectual disabilities who left them is unknown;
- (c) There is no information available on persons deprived of their liberty on the basis of disability and that there are still reports of police crackdowns and deprivation of liberty of persons with disabilities.

27. The Committee recommends that the State party:

- (a) Take, as a matter of urgency, the appropriate measures to amend the Criminal Code and mental health legislation to align them with the provisions of the Convention, in close consultation with organizations of persons with psychosocial or intellectual disabilities;
- (b) Collect information on persons with disabilities and their situation – whether they live alone, in a family setting or on the streets – following their departure from the institutions that were closed down;
- (c) Develop, in close consultation with organizations of persons with psychosocial or intellectual disabilities, protection programmes for persons who have left institutions, and provide for a strict oversight mechanism that enables the filing of complaints of ill-treatment or violence and includes monitoring, sanctions and measures to afford full redress;
- (d) Take, in close consultation with organizations of persons with disabilities, steps to train police officers with the aim of preventing and punishing involuntary detention, and provide for measures of redress.

Djibouti

23. The Committee notes with concern about the discriminatory provisions under the Criminal Code in which persons with disabilities, particularly persons with intellectual or psychosocial disabilities are declared “unfit to stand trial”, “unfit to plea”, incapable from criminal prosecution, leading to involuntary detention. The Committee is also concerned about the involuntary detention and forced hospitalization, of persons with disabilities on grounds of their actual or perceived impairment, deemed “dangerous” to themselves or others, alleged need of protection, or consent by a third party.

24. The Committee recalls its guidelines on article 14 (2015) and recommends that the State party:

- (a) Repeal provisions of the Criminal Code, specifically part II of chapter II, that allow for the involuntary deprivation of liberty and forced hospitalization of persons with disabilities, on the grounds of perceived or actual impairment, particularly for persons with intellectual or psychosocial disabilities;
- (b) Adopt measures to revise and repeal all laws, policies and practices that allow for the involuntary detention and hospitalisation of persons with disabilities, on the basis of perceived or actual impairment, alleged need of protection, care or treatment, or consent by a third party.
- (c) Ensure that persons with disabilities benefit from due process of law guarantees on an equal basis with others.

⁴ [A/72/55](#), annex.

France

29. The Committee notes with concern:

(a) Provisions in the Public Health Code and its amendments allowing forced psychiatric treatment of persons with psychosocial disabilities, the deprivation of liberty on grounds of disability and perceived dangerousness, and practices of physical restraints and solitary confinement;

(b) Placement in close units without consent, on the grounds of psychosocial disability, including hospitalisations and other inpatient treatment not subject to judicial review, and the 12-day-period between the date of hospitalization and effective control by the liberties and detention judges, resulting into violations of the liberty of a person, and risks of exposures to chemical restraints and overmedication;

(c) Overrepresentation of persons with psychosocial disabilities in penitentiary institutions, due to the lack of human rights-based mental-health support in communities, and lack of accessibility and reasonable accommodations for persons with disabilities in penitentiary institutions;

(d) Mandatory outpatient treatment within the community treatment orders through the "programme des soins/care program" exempted from judicial review and the risks of involuntary re-hospitalization or losing support in cases of refusal.

30. The Committee recalls the recommendations issued by the Special Rapporteur on the Rights of Persons with Disabilities (A/HRC/40/54/Add.1, see para. 86) and calls upon the State party to:

(a) Repeal all legal provisions allowing for involuntary treatment and restrictions of liberty on the grounds of psychosocial impairment or perceived dangerousness in institutions or community-based settings;

(b) Prevent placement in close institutions, including prolonged or undetermined hospitalisations, ensure the exercise of the free and informed consent of persons with disabilities, and develop human rights-based support methods that respect dignity, equality, freedom and autonomy, including peer support;

(c) Ensure expeditious review by the liberty and detention judges concerning decisions of involuntary treatment into psychiatric facilities, reducing the 12-day-period-of delay to the shortest period of time;

(d) Ensure that persons with disabilities, deprived of their liberty are entitled to accessibility and reasonable accommodation;

(e) Eliminate mandatory outpatient treatments and apply the World Health Organization Guidance on community mental health services: Promoting person-centred and rights-based approaches, as recommended by the WHO Comprehensive Mental Health Action Plan 2020-2030, endorsed by the World Health Assembly in 2021.

31. The Committee further calls upon the State party to be guided by its obligations under article 14 of the Convention, and the Committee's guidelines on article 14 of the Convention (2015) (see A/72/55, annex), in relation to the draft additional protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Oviedo Convention), and that it oppose its adoption. The State party should implement its obligations under the Oviedo Convention in a manner compatible with the human rights model of disability.

Estonia

27. The Committee notes with concern:

(a) That provisions of the Mental Health Act allow for involuntary treatment of persons with psychosocial disabilities and the deprivation of liberty on the grounds of disability and perceived dangerousness, and that provisions of the Social Welfare Act allow restriction of freedom of movement of persons placed in care facilities;

(b) Information about facilities for deprivation of liberty of children with “behavioural problems”, and the placement of children with intellectual disabilities, and children with psychosocial disabilities in these detention settings;

(c) The lack of accessibility and reasonable accommodations for persons with disabilities in penitentiary institutions.

28. The Committee recommends that the State party:

(a) Review and repeal legal provisions allowing for involuntary deprivation of liberty on the grounds of impairment and perceived dangerousness, and restore the right of persons with psychosocial disabilities to liberty and security of person, on an equal basis with others. The State party should also develop human rights-based mental health provisions, and encourage the self-managed support groups in municipalities;

(b) Adopt a plan of action to identify children with disabilities who are currently in institutions for children with “behavioural problems”, and deinstitutionalize them on emergency basis. The State party should review the cases of children committed to detention facilities and apply non-custodial measures;

(c) Ensure full accessibility and procedural accommodations at all stages of criminal proceedings for all persons with disabilities investigated or prosecuted, including the augmentative and alternative modes of communication and support in decision-making.

29. The Committee further calls upon the State party to be guided by its obligations under article 14 of the Convention, and the Committee’s guidelines on article 14 of the Convention (2015) (see A/72/55, annex), in relation to the draft additional protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Oviedo Convention), and that it oppose its adoption. The State party should implement its obligations under the Oviedo Convention in a manner compatible with the human rights model of disability.

Albania

27. The Committee is concerned that the current legislation permits the deprivation of liberty, forced hospitalization and forced treatment of persons with intellectual or psychosocial disabilities. It is also concerned about the use of physical restraints, particularly on persons with intellectual or psychosocial disabilities, including at home, and that police authorities have not consulted the respective organizations of persons with disabilities in adopting protocols to ensure the elimination of the use of restraints.

28. The Committee recommends that the State party repeal laws permitting the deprivation of liberty on the basis of impairment, forced treatment, the use of restraints and coercive measures based on a medicalized model of disability. It also recommends that the State party provide effective remedies to persons with disabilities deprived of their liberty on the basis of impairment and that, in close consultation with representative organisations of persons with disabilities, it adopt relevant protocols. The Committee further calls upon the State party to be guided by its obligations under article 14 of the Convention, and the Committee’s guidelines on Article 14 of the Convention (2015) (see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I), throughout the regional discussions concerning an Additional Protocol to the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No 164) (Oviedo Convention).

Australia

27. The Committee is seriously concerned about:

(a) Legislative frameworks, policies and practices that result in the arbitrary and indefinite detention and forced treatment of persons with disabilities, and that such frameworks, policies and practices disproportionately affect Aboriginal and Torres Strait Islander persons with disabilities and persons with intellectual or psychosocial disabilities;

- (b) The ongoing practice of obliging persons with “cognitive and mental impairment” to undergo treatment, including through indefinite detention in psychiatric centres, despite the recommendations contained in the Senate Community Affairs References Committee 2016 report *Indefinite Detention of Persons with Cognitive and Psychiatric Impairment in Australia*;
 - (c) The commitment of persons with intellectual or psychosocial disabilities to custody, often indefinitely or for terms longer than those imposed in criminal convictions;
 - (d) The absence of data on the number of persons found not guilty due to “cognitive or mental health impairment” indefinitely detained and the number of such persons detained on an annual basis;
 - (e) The practice of retaining and restraining children with disabilities in adult settings.
- 28. The Committee, recalling its guidelines on the right to liberty and security of persons with disabilities (A/72/55, annex), urges the State party to:**
- (a) **Repeal any law or policy and cease any practice or custom that enables the deprivation of liberty on the basis of impairment and that enables forced medical interventions on persons with disabilities, particularly Aboriginal and Torres Strait Islander persons with disabilities;**
 - (b) **Implement the recommendations contained in the Senate Community Affairs References Committee 2016 report *Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia*;**
 - (c) **Stop committing persons with disabilities to custody and for indefinite terms or for terms longer than those imposed in criminal convictions;**
 - (d) **Collect data on the number of persons indefinitely detained and on the number of such persons detained on an annual basis, disaggregated by the nature of the offence, the length of the detention, disability, Aboriginal and other origin, sex, age and jurisdiction, with the aim of reviewing their detention;**
 - (e) **End the practice of detaining and restraining children with disabilities in any setting.**

Ecuador

29. The Committee is concerned at the continued institutionalization of children and adults with psychosocial and intellectual disabilities. It is also concerned at the fact that persons with psychosocial or intellectual disabilities continue to be subjected to involuntary medication practices, restraints and treatments.

30. The Committee recommends that the State party repeal all legal provisions that permit involuntary committal and treatment and that it prohibit committal, forced treatment and the involuntary application of restraints on persons with disabilities. The Committee also recommends that the State party establish a rigorous oversight mechanism for the prevention of such practices and for the submission of complaints, monitoring, the application of penalties, measures that will afford full redress and measures to ensure that persons with disabilities can exercise their legal capacity on an equal footing with others.

El Salvador

28. The Committee is concerned at:

- (a) Legislation such as the Mental Health Act, 2017, and articles 436 and 437 of the Criminal Procedure Code, which allow for the forced medication of, use of physical restraints on and involuntary institutionalization of persons with psychosocial or intellectual disabilities;
- (b) The Family Code, which allows relatives or guardians of persons with psychosocial or intellectual disabilities to hospitalize them, without the consent of the person concerned, under the presumption of being “mentally ill”;
- (c) Lack of sufficient accessibility and individualized accommodations for persons with disabilities in detention centres and police stations.

29. The Committee recommends that the State party:

- (a) **Immediately adopt measures to repeal or revise all legal provisions in order to prohibit medical treatment and forced institutionalization based on “unfitness to stand trial”;**

- (b) Ensure the dignity, autonomy and independence of persons with disabilities on matters affecting them and establish a mechanism for monitoring detention centres and for the lodging of complaints;
- (c) Remove barriers preventing physical accessibility and communication accessibility in police stations and detention centres.

Greece

21. The Committee is concerned about discriminatory legal provisions, including in Law No. 2071/1992, and the corresponding practice of involuntary hospitalization and deprivation of liberty of persons with psychosocial or intellectual disabilities, as highlighted in the Greek Ombudsman's report of July 2019, and about the use of coercive methods, such as mechanical restraints on persons with psychosocial or intellectual disabilities.

22. In line with its guidelines on the right to liberty and security of persons with disabilities (A/72/55, annex I), the Committee urges the State party to repeal all laws allowing for the involuntary deprivation of liberty on the basis of impairment, end the use of forced treatment, restraints and coercive methods, and provide effective remedies for persons with disabilities deprived of their liberty on the basis of impairment.

23. Furthermore, the Committee recommends that the State party be guided by its obligations under article 14 of the Convention, and consequently oppose the adoption of the draft additional protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, entitled "The protection of human rights and dignity of persons with mental disorder with regard to involuntary placement and involuntary treatment" in its current form.

India

30. The Committee is concerned about:

- (a) The institutionalization of persons with disabilities on the basis of impairment, including in "mental health care homes", "custodial care institutions" and psychiatric hospitals, particularly affecting persons with intellectual or psychosocial disabilities, homeless persons with disabilities and persons requiring high levels of support, in the absence of measures to end all forms of institutionalization on the basis of impairment;
- (b) The confinement of persons with intellectual disabilities at home;
- (c) The incarceration of persons reported as "mentally ill" on the basis of impairment and the assumption of being unfit to stand trial.

31. The Committee recommends that the State party, taking account of the guidelines on the right to liberty and security of persons with disabilities (A/72/55, annex), take measures to:

- (a) Repeal provisions of the Mental Health Care Act and the Bombay Prevention of Begging Act that allow for institutionalization on the basis of impairment, and adopt strategies to end all forms of institutionalization, involuntary commitment and segregation on the basis of impairment, and the seclusion of persons with intellectual or psychosocial disabilities in all types of institutions;**
- (b) Prevent the confinement of persons with intellectual disabilities within their homes and provide for human rights-based support and community services for all persons with disabilities on an equal basis with others;**
- (c) Ensure the right of persons with psychosocial disabilities to due process and a fair trial in criminal proceedings, and end the use of "criminal wards for the insane".**

Iraq

27. The Committee is concerned that:

- (a) Paragraph 105 of the Criminal Code and articles 7 and 8 of Law No. 1 (2005) on mental health provide a legal basis for confining persons with intellectual or psychosocial disabilities in hospitals without their consent, and about the absence of statistical data on the number of persons with disabilities deprived of their liberty, on the reasons and legal bases for such

deprivation of liberty and on the number of persons with disabilities deprived of their liberty in family settings;

(b) There is limited information on the measures taken by the State party to ensure that the rights of persons with disabilities who are deprived of their liberty in detention centres are guaranteed, including the right to reasonable accommodation enshrined in article 15 (6) (a) of Law No. 38 (2013), and whether complaints mechanisms are accessible to them.

28. The Committee recommends that, in line with its guidelines on the right to liberty and security of persons with disabilities (A/72/55, annex), the State party:

(a) Repeal all legislation that allows for the deprivation of liberty on the basis of actual or perceived impairment, further develop recovery-oriented and community-based rehabilitation services for persons with psychosocial or intellectual disabilities and establish complaints mechanisms that are accessible to persons with disabilities in cases of violations of their right to liberty and security;

(b) Take all steps necessary to ensure that the denial of reasonable accommodation is recognized as discrimination on the basis of disability and ensure the provision of individualized supports and procedural accommodations to persons with disabilities suspected of having committed a crime, including during detention.

Kuwait

28. The Committee is concerned about:

(a) Legislation that allows for the deprivation of liberty, as well as the forced hospitalization, institutionalization and non-consensual treatment, of adults and children with disabilities on grounds of their actual or perceived impairment, including because they are deemed dangerous to themselves or others;

(b) Persons with disabilities, in particular persons with psychosocial or intellectual disabilities, being deprived of their liberty in residential and mental health facilities;

(c) The lack of measures taken to ensure individualized accommodation for persons with disabilities deprived of their liberty.

29. The Committee recommends that the State party:

(a) Repeal all laws authorizing the deprivation of liberty, as well as the forced hospitalization, institutionalization and non-consensual treatment, of adults and children with disabilities on grounds of their actual or perceived impairment;

(b) Take immediate measures to end the forced deprivation of liberty based on impairment, including in residential and mental health facilities;

(c) Take measures to ensure the provision of individualized accommodation to persons with disabilities deprived of their liberty.

Myanmar

27. The Committee is concerned about:

(a) The legislative provisions allowing for deprivation of liberty of persons with disabilities and their involuntary placement in residential care institutions on the grounds of their actual and perceived impairment;

(b) The lack of procedural and gender- and age-appropriate accommodation for persons with disabilities suspected of having committed a crime at all stages of the judicial process;

(c) The lack of statistical data to assess the enjoyment of the right to liberty and security of persons with disabilities in the State party, disaggregated by age, gender and disability, on persons with disabilities who are currently hospitalized or institutionalized without their consent.

28. The Committee recommends that the State party, guided by the Committee's guidelines on the right to liberty and security of persons with disabilities (A/72/55, annex I):

(a) Repeal all legislation that allows for the deprivation of liberty on the grounds of actual or perceived impairment or that authorizes institutionalization or involuntary hospitalization of persons with disabilities;

- (b) Provide for procedural and gender- and age-appropriate accommodation for persons with disabilities suspected of having committed a crime, at all stages of the judicial process, including interrogation, prosecution, trial and detention;**
- (c) Put in place mandatory guidelines for admission in order to respect the dignity, integrity, will and preferences of persons with disabilities, and to ensure that they are not deprived of their liberty and provide in its next periodic report statistical data, disaggregated by age, gender and disability, on progress over time of the number of persons with disabilities who are still hospitalized or institutionalized without their consent.**

Cuba

29. The Committee is concerned that:

- (a) Persons with disabilities, particularly persons with psychosocial or intellectual disabilities and older persons with disabilities, may be deprived of their liberty based on the concept of “dangerousness” under the Criminal Code (1987) and under Article 36 of the Public Health Act (1983) respectively, without their free and informed consent;**
- (b) No statistical data on the number of persons with psychosocial or intellectual disabilities and of older persons with disabilities, who are currently hospitalized or institutionalized without their consent, is available.**

30. The Committee recommends that the State party:

- (a) Adhere to by the Committee’s guidelines on the right to liberty and security of persons with disabilities (see A/72/55, annex I), repeal all legislation that allows for the deprivation of liberty based on actual or perceived impairment, introduce legislation, which ensures non-discrimination, such as through procedural accommodation to persons with disabilities, including during interrogation and detention, and explicitly prohibit forced institutionalization of persons with disabilities, particularly persons with psychosocial or intellectual disabilities and older persons with disabilities;**
- (b) Provide statistical data on the number of persons with psychosocial and intellectual disabilities and of older persons with disabilities, who are hospitalized or institutionalized without their consent, in its next periodic report.**

Niger

23. The Committee is concerned about:

- (a) The deprivation of liberty of persons with disabilities without their free and informed consent, including in hospitals, institutions, family settings, and psychiatric institutions, often in inhuman and degrading conditions; and the involuntary and non-consensual commitment of persons with psychosocial or intellectual disabilities;**
- (b) The absence of monitoring of the conditions of persons with disabilities in institutions and other places of detention**

24. The Committee recommends that the State party, guided by the Committee’s guidelines on article 14 (2015):

- (a) Bring its laws and policies into line with article 14 of the Convention by ensuring that persons with disabilities, particularly persons with psychosocial or intellectual disabilities are not deprived of their liberty on the ground of disability; and guarantee access to justice and remedies for persons with disabilities who have been deprived of their liberty;**
- (b) Protect the rights of persons with disabilities deprived of their liberty, particularly persons with psychosocial or intellectual disabilities, in all mental health facilities, and take measures to improve the quality of care in such facilities;**
- (c) Involve persons with disabilities, through their representative organisations, in monitoring of all places where persons with disabilities may be detained and provide training to mental health professionals and law enforcement and prison officials on the rights of persons with disabilities in mental health facilities, prisons and detention centres.**

Norway

23. The Committee is concerned about:

(a) Legal provisions, including in the Mental Health Act, Patients' and the Users' Rights Act and the Health and Care Services Act, allowing for deprivation of liberty and non-consensual treatment and restraint of persons with psychosocial or intellectual disabilities;

(b) The use of coercion such as restraints, isolation, segregation, involuntary treatment, and other intrusive methods, for persons with psychosocial or intellectual disabilities.

24. The Committee recommends that the State party:

(a) In line with Guidelines on article 14, repeal all legal provisions allowing for involuntary deprivation of liberty on the basis of perceived or actual impairment, and forced treatment of persons with psychosocial or intellectual disability, and provide effective remedies to persons with disabilities deprived of their liberty on the basis of actual or perceived impairment;

(b) End the use of coercion, such as restraints, isolation, segregation, involuntary treatment, and other intrusive methods, for persons with psychosocial or intellectual disabilities, including through training of staff, human rights-based and peer-led support initiatives, as well as strengthening procedural guarantees and control;

(c) The Committee further calls upon the State party to be guided by its obligations under article 14 of the Convention, and the Committee's guidelines on Article 14 of the Convention (see A/72/55, annex I), throughout the regional discussions concerning an Additional Protocol to the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No 164).

Rwanda

27. The Committee is concerned about the deprivation of liberty of persons with disabilities on the basis of perceived or actual impairment, and the involuntary hospitalization and institutionalization of children and adults with intellectual or psychosocial disabilities, as is the case in 59 centres listed by the National Council of Persons with Disabilities.

28. In line with its guidelines on the right to liberty and security of persons with disabilities, the Committee recommends that the State party adopt and implement legislation that prohibits, under all circumstances, any involuntary confinement of persons with disabilities in the justice system or in mental health facilities on the basis of perceived or actual impairment. It also recommends that the State party put in place mandatory guidelines of admission to respect the dignity, integrity, will and preference of persons with intellectual or psychosocial disabilities, and to ensure that they are not deprived of their liberty.

Saudi Arabia

25. The Committee is concerned that the State party's Mental Health Care Act and the Code of Practice for Health-Care Professions allow for the placement of persons with disabilities, especially those with psychosocial or intellectual disabilities and children with disabilities, in habilitation- and residential centers, as well as in institutions. It moreover expresses concern that this legislation allows for their hospitalization, as well as medical treatment without their prior free and informed consent.

26. The Committee recommends that the State party, guided by the Committee's guidelines on article 14 (see A/72/55, annex):

(a) Repeal all legislative provisions, including in the Mental Health Care Act and the Code of Practice for Health-Care Professions, that authorize the institutionalization, hospitalization and involuntary medical treatment of persons with disabilities without their prior free and informed consent;

(b) Adopt measures to ensure the rights of persons with disabilities, particularly of children and persons with psychosocial or intellectual disabilities, are respected in all settings, with a special attention to their right to education;

(c) Involve persons with disabilities, through their representative organizations, in the monitoring of all places where persons with disabilities may reside and be detained, including habilitation and residential centers, prisons and detention centres, and provide training to health professionals, law enforcement and prison officials on the respect of the rights of persons with disabilities.

Senegal

25. The committee is concerned about the deprivation of liberty, on the basis of impairment and alleged "mental illness" of persons with disabilities, including children, and particularly persons with psychosocial or intellectual disabilities.

26. The Committee recommends that the State party take note of Guidelines on article 14 (2015), repeal provisions and practices that allow for the deprivation of liberty of adults and children with disabilities on the basis of impairment, and introduce legal recourse for persons with disabilities at risk of being deprived of their liberty, including through institutionalization.

Spain

26. The Committee notes with concern:

(a) That Article 763 of the Civil Procedure and Organic Law still allows persons with psychosocial or intellectual disabilities to be subjected to involuntary commitment in institutions where they can be denied of their liberty and subjected to forced medical treatment and mechanical restraint;

(b) That the use of medication is imposed on persons with psychosocial disabilities as criteria to access services of psychosocial support and housing;

(c) The lack of awareness by health-care professionals about the obligations under the Convention, which leads to prejudicially justifying forced institutionalization and mechanical restraint as "therapeutic measures";

(d) The lack of sufficient provisions within the Criminal Procedure Act currently ensuring accessibility, individualised reasonable accommodations and supports for detained persons with disabilities.

27. The Committee recommends that the State party:

(a) Revise or repeal all legal provisions, including Article 763 of the Civil Procedure, to prohibit forced institutionalization and treatment on the grounds of disability and to ensure human rights-based mental health provisions;

(b) Repeal the requirement for the use of the psychiatric medication to access psychosocial support and housing;

(c) Provide awareness raising and capacity building training developed in consultation with organizations of persons with disabilities for mental health professionals on the rights of persons with disabilities and obligations enshrined under the Convention;

(d) Ensure accessibility and procedural accommodations at all stages of criminal proceedings for persons with disabilities investigated or prosecuted, including provisions for their support in decision-making and guarantee their right to defence.

28. The Committee further calls upon the State party to adhere to its obligations under article 14 of the Convention, and be guided to the Committee's guidelines on Article 14 of the Convention (see A/72/55, annex I), throughout the regional discussions concerning an Additional Protocol to the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (Oviedo Convention).

Turkey

29. The Committee is concerned about:

(a) Legislation including the Civil Code and the Law on the Execution of Penalties and Security Measures allowing for the deprivation of liberty of persons with disabilities on the basis of

presumed dangerousness for treatment, rehabilitation or education purposes and their diversion from the justice system;

(b) The lack of information on legal and administrative review mechanisms for persons with intellectual or psychosocial disabilities in relation to institutionalization processes;

(c) Reports of detentions of persons with disabilities without accessible conditions at the police and law-enforcement institutions.

30. The Committee recommends that the State party:

(a) **Repeal from its legislation the concept of dangerousness and abolish institutionalization based on the same criterion, taking into account the Committee's guidelines on the right to liberty and security of persons with disabilities (see A/72/55, annex) and repeal exceptions to criminal prosecution and criminal responsibility that result in deprivation of liberty;**

(b) **Ensure that persons with disabilities have access, on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, to legal proceedings to appeal their deprivation of liberty;**

(c) **Ensure that detention facilities, and police and law enforcement institutions are accessible for persons with disabilities.**

31. The Committee further calls upon the State party to be guided by its obligations under article 14 of the Convention, and the Committee's guidelines on Article 14 of the Convention (2015) (see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I), throughout the regional discussions concerning an Additional Protocol to the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No 164) (Oviedo Convention).

Vanuatu

26. The Committee is concerned that persons with disabilities, especially those with psychosocial or intellectual disabilities, are still subjected to laws that deprive them of their liberty and that there is a lack of information on the measures taken to ensure that they are not subject to arbitrary treatment, including confinement.

27. The Committee recalls its guidelines on the right to liberty and security of persons with disabilities (see A/72/55, annex I) and recommends that the State party:

(a) **Repeal all relevant provisions in legislations, including mental health laws, that allow for the deprivation of liberty of persons with disabilities on the basis of impairments, particularly persons with psychosocial or intellectual impairments;**

(b) **Establish a monitoring mechanism to ensure that persons with psychosocial or intellectual disabilities are not subjected to arbitrary and forced treatment, which results in confinement.**

Algeria

28. The Committee is concerned about the deprivation of liberty of persons with disabilities and the involuntary placement of persons with disabilities in residential care institutions based on their actual or perceived impairment. It is also concerned about the lack of reasonable accommodation or age-appropriate accommodation for persons with disabilities suspected of having committed a crime at all stages of the judicial process, particularly during their interrogation and detention.

29. The Committee recommends that the State party, guided by the Committee's guidelines on the right to liberty and security of persons with disabilities (see A/72/55, annex I), repeal all legislation that allows for the deprivation of liberty on the basis of actual or perceived impairment or that authorize institutionalization without the free and informed consent of the person, including cases where consent is substituted by a third party. It also recommends that the State party introduce legislation, which provides for reasonable accommodation and/or procedural accommodation to persons with disabilities suspected of having committed a crime, including during interrogation, prosecution, trial and detention.

Bulgaria

33. The Committee notes with concern that persons with disabilities with restricted legal capacity may still be placed by a court in a specialized institution or under residential care under provisions of Social Assistance Act articles 166, 16 (c) and 16 (d).

34. The Committee urges that the State party amend its Social Assistance Act and withdraw provisions allowing for forced institutionalization, taking into account the Committee's guidelines on the right to liberty and security of persons with disabilities (see Report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I).

Malta

23. The Committee is concerned that some legislation in place is not in line with the Convention, particularly the Mental Health Act (Cap. 525), which allows the involuntary detention and non-consensual psychiatric treatment of persons with disabilities, on the grounds of psychosocial and intellectual disabilities. It also notes with concern the continued hospitalisation of persons with psychosocial and intellectual disabilities without their consent.

24. The Committee recommends that the State party revise and repeal the legal provisions that legitimise forced internment and non-consensual psychiatric treatment on the grounds of psychosocial and intellectual disability and fully harmonize their provisions with article 14 of the Convention and the Committee's guidelines on article 14 of the Convention (see A/72/55, annex).

Philippines

28. The Committee is concerned that Rule 101 of the Philippine Rules of Court on Proceedings for the Hospitalization of 'Insane' Persons and the provisions of the Mental Health Act maintaining procedures for involuntary detention on the basis of impairment.

29. The Committee recommends that the State party, in line with the Committee's Guidelines on article 14 of the Convention on the Rights of Persons with Disabilities (see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I):

- (a) Repeal Rule 101 of the Philippine Rules of Court on Proceedings for the Hospitalization of 'Insane' Persons, conduct review of its Mental Health Act and withdraw provisions that allow for detention in psychiatric hospitals and other types of institutions;**
- (b) Stop processes aimed at institutionalization of persons with disabilities in psychiatric hospitals on the basis of actual or perceived impairment.**

Poland

23. The Committee is concerned about the:

- (a) Mental Health Protection Act allowing for involuntary treatment of persons with disabilities and involuntary deprivation of liberty on the grounds of their psychosocial disability, including placement in institutions by their guardians as being considered voluntary;**
- (b) Limitations of personal liberty of persons with disabilities living in social care institutions;**
- (c) Lack of independent monitoring of public and private care and mental health facilities;**
- (d) Lack of reasonable accommodation and access to health care for persons with disabilities in penitentiary.**

24. The Committee recommends that the State party:

- (a) Repeal all legal provisions allowing for involuntary treatment of persons with disabilities and their placement in institutions on the grounds of psychosocial disability;**
- (b) Abolish limitation of personal liberty of persons living in social care institutions;**
- (c) Develop recovery-oriented and community-based rehabilitation services for persons with psychosocial disabilities;**
- (d) Develop monitoring mechanisms for public and private care and mental health facilities;**

(e) Ensure reasonable accommodation and access to quality health care for all persons with disabilities in penitentiary.

25. The Committee commends the State party for opposing the ratification of the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No 164) (Oviedo Convention), and encourages it to raise concerns and disapproval throughout the regional discussions concerning an Additional Protocol.

South Africa

26. The Committee notes with concern:

(a) The intention of the Government to revise the Older Persons Act (2006) following the amendment of the Mental Health Care Act (2002) with no indication regarding timeframes for these amendments.

(b) The alarming increase in the number of admissions of persons with disabilities in mental health care institutions, which almost doubled between 2015 and 2017;

(c) The absence of adequate measures to monitor the situation of persons with disabilities in institutions and other places of detention and the lack of training of staff regarding the rights of persons with disabilities to reasonable accommodation.

27. The Committee recommends that the State party:

(a) **Guided by the Committee's guidelines on article 14 of the Convention, repeal all legislation that authorizes forced institutionalization and repeal all laws that allow for deprivation of liberty on the basis of impairment;**

(b) **Take effective measures for the de-institutionalisation of persons with disabilities and adopt adequate measures to ensure the rights of persons with disabilities, particularly persons with psychosocial and/or intellectual disabilities, deprived of their liberty in all mental health facilities;**

(c) **Adopt measures to revise the Older Persons Act (2006) and the Mental Health Care Act (2002), to strengthen their alignment with the Convention, including providing clear timeframes for these amendments.**

(d) **Meaningfully involve persons with disabilities, through their representative organisations, in monitoring of all places where persons with disabilities are deprived of their liberty and provide training to mental health professionals and law enforcement and prison officials to respect the rights of persons with disabilities in mental health facilities, prisons and detention centres.**

The Former Yugoslav Republic of Macedonia

28. The Committee is concerned about the legal provisions allowing for deprivation of liberty and non-consensual treatment and restraint of persons with psychosocial disabilities in mental health facilities.

29. The Committee recommends that the State party, in line with Guidelines on article 14, repeal all legal provisions allowing for involuntary deprivation of liberty on the basis of impairment, and involuntary treatment of persons with psychosocial disability, further, develop recovery-oriented and community-based rehabilitation services for persons with psychosocial disabilities.

1. The Committee is concerned that persons with psychosocial and/or intellectual disability deprived of their legal capacity are denied the right to take part in a litigation and to stand as witnesses in procedures before civil courts. Furthermore, it is also concerned about the barriers which persons with disabilities in general face in accessing justice due to lack of:

(a) Procedural accommodation, as well as the use of sign language, Braille, accessible digital formats, Easy Read and all other accessible means, modes and formats of communication in all legal proceedings;

(b) Accessibility to justice buildings, courts and tribunals and police stations, for persons with physical disabilities;

- (c) Human rights based knowledge on disability of the justice system and law enforcement personnel on the rights of persons with disabilities;
- (d) Mechanisms for persons with disabilities to report violence, including the lack of access to justice for children with intellectual disabilities, women with disabilities or those living in institutions;
- (e) Legal assistance for persons with disabilities, including legal assistance and procedural accommodation for persons with psychosocial disabilities;
- (f) Access to legal professions for persons with disabilities based on presumptions that they are “unfit” for the profession.

2. The Committee recommends that the State party guarantee equal and supported access to all judicial processes for persons with intellectual and/or psychosocial disabilities deprived of their legal capacity. It further recommends to ensure that persons with disabilities have access to justice in practice, and in particular to:

- (a) Ensure procedural accommodation, as well as the use of sign language, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication in all legal proceedings;
- (b) Ensure that justice buildings, courts and tribunals, and police stations, are accessible for persons with physical disabilities;
- (c) Provide regular training to law enforcement and judicial officers about the rights of all persons with disabilities and obligations of the State Party under the Convention;
- (d) Ensure effective mechanisms for persons with disabilities to report violence, including crimes on the grounds of hatred, as well as access to justice for children with intellectual disabilities, women with disabilities or those living in institutions;
- (e) Ensure universal and free legal assistance for persons with disabilities, having low income particularly, and legal assistance and procedural accommodation for persons with psychosocial disabilities;
- (f) Support persons with disabilities to practice legal professions and ensure reasonable accommodation for this purpose;
- (g) Be guided by article 13 of the Convention in the implementation of target 16.3 of the Sustainable Development Goals. **itre26. The Committee notes with concern that:**

- (a) Legislation in place is not in line with the Convention, and particularly that persons with psychosocial or intellectual disabilities can be declared interdicted, unfit to benefit from regular procedures, and hence deprived of the liberty for unlimited time;
- (b) Forced detention on the grounds of disability is permissible, including in the new draft reform of the penal Code and the Code of criminal procedure;
- (c) Persons with disabilities suspected of having committed a crime face extended pre-trial detention and are not allowed bail on the ground that they are a danger to themselves and others;
- (d) Persons with psychosocial disabilities can be forcibly interned in a psychiatric establishment and receive non-consensual psychiatric treatment, on the grounds of their impairments;
- (e) The deinstitutionalization plan under the national health policy of 2014 has not been implemented.

27. The Committee recalls its guidelines on article 14 of the Convention (A/72/55, annex I) and recommends that the State party:

- (a) Take the legal and other measures necessary to ensure that persons with disabilities accused of an offence are entitled to a fair trial and due process guarantees on an equal basis with others;
- (b) Revise and repeal the legal provisions that legitimate forced internment and non-consensual psychiatric treatment on the grounds of disability and ensure that all draft legislation is in line with the Convention;
- (c) Carry out research on the impact on the personal security of persons deprived of their liberty who are either hospitalized or detained in prison or other secure settings on the basis of their impairment without their free and informed consent with a view to end this practice;

(d) Expedite the implementation of the deinstitutionalization plan under the national health policy of 2014.

Nepal

25. The Committee is concerned that persons with intellectual and/or psycho-social disabilities are allegedly chained or detained in houses or forcibly placed in psychiatric facilities, and that physical examinations, medical treatments and medications are sometimes carried out without the free consent of persons with disabilities as well as reported cases of chaining, torturing and over-dozing of persons with intellectual disabilities in psychiatric treatment facilities.

26. The Committee recommends that the State party take all legal and other appropriate measures necessary to stop the deprivation of liberty of persons with disabilities on the basis of actual or perceived impairment, and that any examination or treatment of persons with disabilities be undertaken after free and informed consent of the persons concerned, in line with the Committee's guidelines on the right to liberty and security of persons with disabilities, adopted by the Committee at its fourteenth session (17 August-4 September 2015) (see Report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), Annex). In this regard, the Committee recommends that the State party investigate, prosecute and punish cases of chaining, detention in private homes, and forcible placement and treatment in psychiatric facilities.

Oman

29. The Committee is concerned about:

- (a) Impairment-based detention and forced institutionalization of persons with disabilities, especially against persons with psychosocial and/or intellectual disabilities;
- (b) The condition of "mental hospitals" currently operating in Oman and the number of patients admitted at the Ibn Sina Hospital without their free and informed consent;
- (c) Insufficient monitoring of the conditions of persons with disabilities in institutions and other places of detention and lack of training of staff regarding the rights of persons with disabilities to reasonable accommodation.

30. The Committee recommends that the State party:

- (a) Guided by the Committee's guidelines on article 14 (A/72/55, Annex) , repeal all legislation that authorizes institutionalization without the free and informed consent of the person, party, and repeal all laws that allow for deprivation of liberty on the basis of impairment;**
- (b) Ensure due process of law guarantees for all persons with disabilities on an equal basis with others, including access to justice and remedies;**
- (c) Adopt measures to ensure the rights of persons with disabilities, particularly persons with psychosocial and/or intellectual disabilities, deprived of their liberty in all mental health facilities, and take measures to improve the quality of care therein;**
- (d) Involve persons with disabilities, through their representative organisations, in monitoring of all places where persons with disabilities may be detained and provide training to mental health professionals and law enforcement and prison officials to respect the rights of persons with disabilities in mental health facilities, prisons and detention centres.**

Russian Federation

32. The Committee notes with concern that persons with disabilities, particularly with psychosocial disabilities may still be deprived of their liberty in psychiatric hospitals or other institutions, on the basis of their impairment under provisions of the Criminal Code and the Code of Criminal Procedure.

33. The Committee urges the State Party to amend its Criminal Code and the Code of Criminal Procedure and fully harmonize their provisions with article 14 of the Convention and the Committee's guidelines on article 14 of the Convention (A/72/55, annex I).

Seychelles

22. The Committee is concerned about:

- (a) Provisions in the State party's Mental Health Act allowing for detention of persons with psychosocial disabilities on the basis of impairment, and their treatment without consent in psychiatric hospitals;
- (b) The placement in secure wards without consent in care institutions and psychiatric hospitals, including in overcrowded secure wards;
- (c) The lack of reasonable accommodation, such as hygiene and medical care accommodation, in the system of enforcement of criminal sanctions, and in detention places.

23. The Committee recommends that the State party:

- (a) Conduct a review and repeal all legislation providing for involuntary commitment and non-consensual psychiatric treatment of persons with disabilities on the grounds of their actual or perceived impairment under any condition, including alleged risk and dangerousness, and be guided by the Committee's guidelines on the right to liberty and security of persons with disabilities (see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I);**
- (b) Ensure the integrity and security of persons with disabilities, residing in institutions and hospitals, in full respect of their dignity and consent;**
- (c) Provide reasonable accommodation in the system of enforcement of criminal sanctions and places of detention, including provision of suitable health care.**

24. The Committee further calls upon the State party to be guided by its obligations under article 14 of the Convention, and the Committee's guidelines on Article 14 of the Convention (2015) (see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I), throughout the regional discussions concerning an Additional Protocol to the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No 164) (Oviedo Convention).

Slovenia

22. The Committee is concerned about:

- (a) Provisions in the State party's Mental Health Act allowing for detention of persons with psychosocial disabilities on the basis of impairment, and their treatment without consent in psychiatric hospitals;
- (b) The placement in secure wards without consent in care institutions and psychiatric hospitals, including in overcrowded secure wards;
- (c) The lack of reasonable accommodation, such as hygiene and medical care accommodation, in the system of enforcement of criminal sanctions, and in detention places.

23. The Committee recommends that the State party:

- (a) Conduct a review and repeal all legislation providing for involuntary commitment and non-consensual psychiatric treatment of persons with disabilities on the grounds of their actual or perceived impairment under any condition, including alleged risk and dangerousness, and be guided by the Committee's guidelines on the right to liberty and security of persons with disabilities (see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I);**
- (b) Ensure the integrity and security of persons with disabilities, residing in institutions and hospitals, in full respect of their dignity and consent;**
- (c) Provide reasonable accommodation in the system of enforcement of criminal sanctions and places of detention, including provision of suitable health care.**

24. The Committee further calls upon the State party to be guided by its obligations under article 14 of the Convention, and the Committee's guidelines on Article 14 of the Convention (2015) (see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I), throughout the regional discussions concerning an Additional Protocol to the Council of Europe Convention for the Protection of Human Rights and Dignity

of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine (ETS No 164) (Oviedo Convention).

Sudan

27. The Committee is concerned about article 49 of the Criminal Code leading to arbitrary institutionalization of persons with disabilities and about the enduring practice of institutionalizing persons with disabilities against their will and for extended periods of time, including in institutions run by traditional healers.

28. Taking into consideration its guidelines on article 14 (2015), the Committee recommends that the State party review article 49 of the Criminal Code to ensure that persons with disabilities are not arbitrarily institutionalized in the context of criminal procedures, and take measures to eradicate the forced institutionalization of persons with disabilities, in particular with intellectual and/or psychosocial disabilities, including in institutions run by traditional healers.

Latvia

24. The Committee is concerned that:

(a) The Law on Social Services and Social Assistance allows persons with intellectual and/or psychosocial disabilities to be institutionalized in psychiatric facilities when the necessary psychiatric services are not available in the community;

(b) The legal review of cases of involuntary placement in institutions is ineffective;

(c) Persons residing in institutions may face undue restrictions in relation to their free movement outside such institutions;

(d) Persons with intellectual and/or psychosocial disabilities who are deprived of their liberty may face restrictions on accessing their personal medical files and medication.

25. The Committee, in accordance with its guidelines on article 14 of the Convention regarding the right to liberty and security of persons with disabilities (2015), recommends that the State party:

(a) Repeal all relevant legislation in order to prevent the institutionalization of persons with intellectual and/or psychosocial disabilities and to increase the availability of community-based mental health services;

(b) Repeal the provisions that allow persons with disabilities to be involuntarily committed to mental health institutions and, until as such time that these provisions have been amended, ensure that they have access to a court of law to challenge any such action;

(c) Ensure the free movement of persons residing in institutions;

(d) Ensure access for persons with intellectual and/or psychosocial disabilities who are deprived of their liberty to their personal medical files and medication.

Luxembourg

28. The Committee is concerned that legislation in place is not in line with the Convention, particularly the 2009 Act on the hospitalization of persons with mental disorders without their consent, which allows the forced internment in a psychiatric establishment and non-consensual psychiatric treatment of persons with disabilities, on the grounds of psychosocial disabilities. The Committee is also concerned that persons with psychosocial and/or intellectual disabilities accused of a criminal offence do not have the right to due process but instead, are subjected to detention in the judicial psychiatric unit within the penitentiary centre (art. 71 of the Penal Code). It is further concerned by the absence of research on the impact on the personal security of persons deprived of their liberty who are either hospitalized or detained in prison, or other secure settings.

29. The Committee recommends that the State party:

(a) Revise and repeal the legal provisions that legitimate forced internment and non-consensual psychiatric treatment on the grounds of disability;

- (b) **Ensure that persons with disabilities accused of an offence are entitled to a fair trial and due process guarantees on an equal basis with others;**
- (c) **Carry out research on the impact on the personal security of persons deprived of their liberty who are either hospitalized or detained in prison or other secure settings without their free and informed consent.**

Montenegro

28. The Committee notes with concern that the current medical approach to disability permits the deprivation of liberty of persons with disabilities on the basis of impairment and provides for involuntary hospitalization and forced institutionalization of children and adults with intellectual and/or psychosocial disabilities. The Committee also notes with concern that, pursuant to article 33 of the Protection and Exercise of the Rights of the Mentally Ill Act, police officers are obliged to deprive a person of liberty based only on the suspicion of “mental illness”. The Committee is concerned about the lack of information on any safeguards in this regard and the possibility of challenging such deprivation of liberty.

29. The Committee urges the State party to repeal laws and protocols permitting any form of deprivation of liberty based on impairment or perceived impairment and to provide effective safeguards and remedies to persons with disabilities who have been deprived of their liberty on the basis of impairment.

Morocco

30. The Committee is concerned about the deprivation of liberty, on the basis of impairment and alleged dangerousness, of persons with disabilities, including children, and in particular persons with psychosocial and/or intellectual disabilities.

31. The Committee recommends that the State party repeal provisions and practices that allow for the deprivation of liberty of adults with disabilities and children with disabilities on the basis of impairment, and introduce legal recourse for persons with disabilities at risk of being deprived of their liberty, including through institutionalization or internment, and to that end be guided by, inter alia, the Committee’s guidelines on article 14 of the Convention.

Panama

34. The Committee is concerned at the fact that persons with disabilities in the State party, including persons with psychosocial disabilities, continue to be placed in institutions and at the lack of data on this subject.

35. The Committee recommends that the State party protect and safeguard persons with disabilities from institutionalization and explicitly prohibit their institutionalization.

United Kingdom of Great Britain and Northern Ireland

34. The Committee is concerned that the State party’s legislation provides for involuntary, compulsory treatment and detention both inside and outside hospitals on the basis of actual or perceived impairment.

35. The Committee recommends that the State party:

- (a) **Repeal legislation and practices that authorize non-consensual involuntary, compulsory treatment and detention of persons with disabilities on the basis of actual or perceived impairment;**
- (b) **Take appropriate measures to investigate and eliminate all forms of abuse of persons with disabilities in institutional facilities.**

Armenia

23. The Committee is concerned about:

- (a) The legal provisions allowing arbitrary deprivation of liberty, including involuntary hospitalization and forced institutionalization, of persons with psychosocial and/or intellectual disabilities for lengthy periods of time, sometimes their entire life, and the lack of

sufficient safeguards and legal assistance for persons with disabilities who are deprived of their liberty in institutions;

(b) The overcrowding and poor living and sanitary conditions, including inappropriate nutrition, in places of deprivation of liberty, in particular in residential and penitentiary institutions;

(c) The lack of reasonable accommodation, including advocacy support, for persons with disabilities in penitentiary institutions.

24. The Committee recommends that the State party:

(a) Repeal laws and prohibit detention, including involuntary hospitalization and forced institutionalization, as well as non-consensual psychiatric treatment, on the grounds of impairment;

(b) Ensure that all places of deprivation of liberty, including residential, psychiatric and penitentiary institutions, maintain accessible and humane living conditions responding to the requirements of all persons with disabilities;

(c) Ensure access to reasonable accommodation, including advocacy support, for persons with disabilities in penitentiary institutions.

Bosnia and Herzegovina

26. The Committee is concerned that the current practice permits deprivation of the liberty of persons with disabilities on the basis of impairment and provides for involuntary hospitalization and forced institutionalization of children and adults with intellectual and/or psychosocial disabilities.

27. The Committee urges the State party to repeal laws permitting deprivation of liberty on the basis of impairment, forced treatment and the use of restraints and coercive measures based on a medical-based model of disability, and to provide effective remedies to persons with disabilities deprived of their liberty on the basis of impairment.

Canada

31. The Committee is concerned about:

(a) Involuntary detention of persons with psychosocial disabilities in psychiatric institutions on the basis of impairment, across various State party jurisdictions;

(b) Legislation at the federal, provincial and territorial levels relating to detention of accused persons with psychosocial and/or intellectual disabilities who may be found unfit to stand trial, in the context of criminal procedures;

(c) Information regarding inmates with psychosocial and/or intellectual disabilities being inappropriately identified as having “behavioural problems” instead of a disability, which limits the provision of the reasonable accommodation and appropriate health care available to them;

(d) The lack of reasonable accommodation for women with disabilities within the federal prison system, and the adverse effect of their administrative segregation within detention facilities;

(e) Information about indigenous persons with disabilities and migrants with disabilities, who, along with persons with intellectual and psychosocial impairments, are overrepresented in prisons in the State party.

32. The Committee urges the State party to:

(a) Review federal, provincial and territorial policies and practices related to involuntary detention with the aim of bringing those policies and practices into compliance with article 14 of the Convention and the respective guidelines;

(b) Set up a minimum core obligation across the federal, provincial and territorial jurisdictions regarding the right to stand trial for persons with disabilities, with appropriate accommodation during criminal proceedings;

(c) Ensure access to health services, including psychosocial support, for inmates under the federal jurisdiction on an equal footing with others, on the basis of their free and informed consent;

- (d) **Adopt and implement guidelines to provide reasonable accommodation for all persons with disabilities who are detained in prison and/or detention centres, and ensure that women in such centres receive appropriate support and reasonable accommodation;**
- (e) **Work in partnership with the Canadian Human Rights Commission and the provincial human rights commissions in order to assess, and set up measures to address, the situation of indigenous and migrant persons with disabilities in prison.**

Cyprus

37. The Committee is concerned that non-voluntary confinement and treatment of persons with psychosocial disabilities remains legal, especially on the grounds of having a “serious mental disorder”, such as being considered dangerous to oneself or to others.

38. The Committee recommends that the State party in line with general comment No. 1 (2014) and the guidelines on article 14 (2015) take the legislative amendments necessary to prohibit all forms of non-voluntary detention and/or treatment on the grounds of impairment or impairment-related assumptions, and further ensure adequate and individualized support to persons with intellectual and/or psychosocial disabilities.

Honduras

35. Al Comité le preocupa la vigencia en el ordenamiento jurídico hondureño de normas sobre salud mental que estipulan la privación de la libertad de personas con discapacidad con base en la presencia real o percibida de una discapacidad psicosocial, como en los hospitales Santa Rosita y Mario Mendoza. Preocupa también al Comité que las personas declaradas inimputables de la comisión de un delito en razón de una deficiencia puedan ser objeto de medidas de seguridad, incluida la detención indefinida. Expresa asimismo su inquietud por la situación de las personas con discapacidad privadas de libertad en las cárceles y otros lugares de detención.

36. El Comité insta al Estado parte a que revise y reforme sus leyes, incluyendo la Ley de Salud Mental y el Código Penal con el objeto de armonizar la legislación con las disposiciones del artículo 14 de la Convención y proteger efectivamente las garantías del debido proceso de las personas con discapacidad, particularmente con discapacidad psicosocial, proporcionando los apoyos que requieran durante los procesos judiciales. El Comité le pide al Estado parte que revise los casos de internamiento en los hospitales Santa Rosita y Mario Mendoza. El Comité insta al Estado parte a que, a través de la Defensoría del Pueblo, proteja judicialmente todos los derechos de las personas con discapacidad, propiciando una debida asistencia jurídica y velando por el cumplimiento de un debido proceso de las personas con discapacidad.

Iran (Islamic Republic of)

30. The Committee is concerned that persons with disabilities can be detained in institutions, such as hospices, rehabilitation, and care centers on the basis of impairment. The Committee is concerned that having a psychosocial and/or intellectual impairment is a reason for not standing trial and being subjected to detention in psychiatric hospitals, in the context of criminal procedures.

31. The Committee recommends that the State party:

(a) Repeal legislation, policies and practices that allow forced institutionalization of persons with disabilities on the basis of impairment, including for the purpose of psychiatric treatment, rehabilitation or the alleged need of ‘care’; and

(b) Reaffirm the right to a fair trial of persons with disabilities, particularly persons with psychosocial and/or intellectual disabilities, in accordance with the Convention, and end detention on psychiatric hospitals on the basis of impairment.

Jordan

29. The Committee notes with concern that, pursuant to article 233 (5) of the Code of Criminal Procedure (Law No. 9 of 1961) and articles 14 and 15 of the Public Health Law (No. 47 of 2008), persons with disabilities may be deprived of their liberty on grounds that they “constitute a danger to themselves or to society” as a result of their impairment.

30. The Committee urges the State party to repeal the relevant provisions of the Code of Criminal Procedure and the Public Health Law in order to prohibit detention on the grounds of disability, including involuntary placement in hospitals, institutions or prisons, in line with the Committee’s guidelines (2015) on the right to liberty and security of persons with disabilities (art. 14 of the Convention).

Republic of Moldova

28. The Committee is concerned that:

(a) Legislation in place, particularly Law No. 1402 on mental health is not in line with the Convention and allows the forced internment in a psychiatric establishment and non-consensual psychiatric treatment of persons with disabilities, on the grounds of psychosocial and/or intellectual impairment;

(b) Persons with psychosocial and/or intellectual disabilities accused of a criminal offence do not have the right to due process but are instead subjected to a medical coercive measures;

(c) Persons with disabilities are arbitrarily deprived of their liberty and individual autonomy in institutions for lengthy periods of time, sometimes their entire life, on the basis of an actual or perceived impairment.

29. The Committee urges the State party to:

(a) **Revise and repeal the legal provisions that authorize forced internment and non-consensual psychiatric treatment on the grounds of impairment;**

(b) **Ensure that persons with disabilities accused of an offence are entitled to a fair trial and due process on an equal basis with others;**

(c) **Take all legal and other measures necessary to stop the deprivation of liberty of persons with disabilities on the basis of an actual or perceived impairment.**

Bolivia

35. The Committee is concerned that due process guarantees are not observed in the State party, especially with regard to persons with intellectual or psychosocial disabilities. It is also concerned that security measures are applied to persons identified in connection with an offence but who have been declared not criminally responsible by reason of “mental disability”.

36. The Committee urges the State party to apply due process guarantees, including the presumption of innocence and the right to a fair trial, to all persons with disabilities, on an equal basis with others. It also recommends that the State party review and amend its criminal legislation to eliminate declarations of non-responsibility on grounds of disability and the security measures that are imposed as a result of these declarations.

37. The Committee is concerned that there is no information about the detention of persons with disabilities against their will in the State party.

38. The Committee urges the State party to prohibit detention on grounds of disability, carry out a survey of persons with disabilities who have been placed in confinement by reason of their disability, and subsequently adopt and implement a plan for their deinstitutionalization that includes social alternatives, has an adequate budget, and is monitored by an independent authority in consultation with organizations of persons with disabilities. In order to implement these recommendations, the Committee recommends that the State party conform to the guidelines on liberty and security of the person (art. 14).

Colombia

36. The Committee is concerned about the lack of detailed information on the number and situation of persons institutionalized and detained because of their disability. It is also concerned that persons with psychosocial disabilities are deprived of their liberty on the grounds that they require medical treatment and with only the consent of their legal representative.

37. The Committee recommends that the State party explicitly prohibit forced institutionalization on the basis of disability, and that it adopt protocols to guarantee the exercise of the right to free and informed consent of persons with disabilities.

38. The Committee notes with concern that the Criminal Code still provides for the absence of criminal responsibility by reason of an intellectual or psychosocial disability, and that the protective measure of deprivation of liberty is applied without procedural guarantees.

39. The Committee recommends that the State party amend its criminal legislation in line with the Convention, provide reasonable procedural accommodation for persons with disabilities involved in criminal proceedings and guarantee their right, on an equal basis with others, to due process, the presumption of innocence, and legal assistance and qualified defence counsel.

40. The Committee notes with concern that centres of deprivation of liberty for convicted persons are not accessible and do not have specific health and rehabilitation services for persons with disabilities. It is also concerned about the fact that detained persons with disabilities do not have access to administrative benefits on an equal basis with others, for example, participation in vocational activities.

41. The Committee recommends that the State party adopt an accessibility plan for all centres of deprivation of liberty for persons subject to criminal proceedings, and provide health and rehabilitation services and professional and vocational training for persons with disabilities. It also recommends that the State party, in implementing these recommendations, follow the guidelines on liberty and security of person (art. 14 of the Convention).

Ethiopia

31. The Committee is concerned that forced detention on the basis of impairment is allowed. The Committee is concerned that the legislation of the State party allows for persons with intellectual and psychosocial disabilities to be declared unfit to stand trial, without due process of law. It is also concerned that persons with disabilities who are declared to be unfit to stand trial are subjected to security measures and, on that account, deprived of their liberty without a time limitation.

32. The Committee recommends that the State party repeal laws permitting deprivation of liberty on the basis of impairment and draft new legislation that prohibits that practice. It also recommends that the State party repeal those laws that allow for persons with intellectual or psychosocial disabilities to be declared unfit to stand trial, and that it allow that such persons benefit from due process of law guarantees. Likewise, security measures cannot be applied to carry out the deprivation of liberty without proof of guilt. The Committee refers the State party to its guidelines on article 14.

Guatemala

39. The Committee notes with concern that persons with intellectual or psychosocial disabilities have frequently been the subject of declarations of non-liability in the context of criminal proceedings, in the absence of procedural safeguards.

40. The Committee recommends that the State party adopt the necessary measures to guarantee due process for persons with disabilities in the context of criminal proceedings, whether as indicted persons, victims or witnesses, and to define specific criteria for providing procedural and age-appropriate accommodations during such proceedings. It also recommends setting up training mechanisms for justice officials, prison officers and public

officials responsible for law enforcement throughout the country in accordance with the Convention.

41. The Committee notes with concern that, under the Civil Code, persons with disabilities may be deprived of their liberty on grounds of disability.

42. The Committee urges the State party to bring its laws and policies into line with article 14 of the Convention, by ensuring that persons with disabilities are not deprived of their liberty on grounds of disability. The State party is encouraged to refer to the Committee's guidelines on article 14.

Italy

33. The Committee is concerned about restrictive measures for "socially dangerous" persons, including persons who are deemed a danger to themselves or others.

34. The Committee recommends that the State party carry out legal and policy reform in order to prohibit detention, including involuntary hospitalization and/or treatment, on the grounds of disability, as outlined above, so that laws and policies are harmonized with the Committee's statement on article 14.

35. The Committee is concerned that the criminal law of the State party allows persons with intellectual or psychosocial disabilities to be declared unfit to plead, without application of the rules of due process for a fair trial. It is also concerned that persons with disabilities who are declared unfit to plead may be subjected to security measures involving forced deprivation of liberty for an indefinite time.

36. The Committee recommends that the State party repeal criminal laws that allow persons with intellectual or psychosocial disabilities to be declared unfit to plead, allowing the full application of the rules of due process for a fair trial. It also recommends that the State party ensure that safety measures do not involve indeterminate deprivations of liberty without proof of guilt.

37. The Committee is concerned about the lack of equal treatment of prisoners with disabilities compared with those without disabilities.

38. The Committee recommends that the State party ensure the provision of reasonable accommodation to prisoners with disabilities to ensure their participation in and access to all services and activities, on an equal basis with others, in prisons or other centres of detention.

United Arab Emirates

27. The Committee is concerned:

(a) That persons are detained involuntarily in specialized institutions on the basis of their impairment and are deprived of their liberty because of a disability, including an intellectual or psychosocial disability;

(b) That persons with intellectual and psychosocial disabilities accused of an offence are declared unfit to stand trial and not given due process.

28. The Committee recommends that the State party:

(a) **Repeal all legislation that authorizes institutionalization without the free and informed consent of the person, including in cases where consent is substituted by a third party, and repeal all laws that allow for deprivation of liberty on the basis of disability;**

(b) **Ensure that persons with disabilities accused of an offence are entitled to a fair trial and due process of law guarantees, including the presumption of innocence, on an equal basis with others;**

(c) **Be guided by the Committee's guidelines on article 14 of the Convention on the right to liberty and security of persons with disabilities in the implementation of the present recommendations.**

Uruguay

33. Al Comité le preocupa la vigencia en el ordenamiento jurídico uruguayo de normas como la Ley 9581 de 1936 sobre salud mental, que estipula la privación de la libertad de personas con discapacidad con base en la presencia real o percibida de una discapacidad psicosocial. Preocupa también al Comité que las personas declaradas inimputables en la comisión de un delito en razón de una deficiencia puedan ser objeto de medidas de seguridad, incluida la detención indefinida. Expresa asimismo su inquietud por la situación de las personas con discapacidad privadas de libertad en centros penitenciarios y otros lugares de detención.

34. El Comité insta al Estado parte a que revise y reforme sus leyes, incluyendo la Ley de salud mental y el Código Penal con el objeto de armonizar la legislación con las disposiciones del artículo 14 y proteger efectivamente las garantías del debido proceso de las personas con discapacidad, particularmente con discapacidad psicosocial o discapacidad intelectual, proporcionando los apoyos que requieran durante los procesos judiciales. El Comité insta al Estado parte a que, a través de la Defensoría del Pueblo, proteja judicialmente todos los derechos de las personas con discapacidad, propiciando una debida asistencia jurídica y velando por el cumplimiento del debido proceso para las personas con discapacidad. Se recomienda también que el Estado parte adopte medidas para que los centros penitenciarios sean accesibles y se realicen ajustes razonables para las personas con discapacidad.

35. Al Comité le preocupa la situación de las personas con discapacidad institucionalizadas en hospitales psiquiátricos u otro tipo de centros residenciales de larga estadía, por motivo de su discapacidad, sin el consentimiento libre e informado de la persona afectada, y particularmente de niñas y niños con discapacidad en situación de abandono, siendo ésta la razón de su institucionalización.

36. El Comité insta al Estado parte a que prohíba la institucionalización forzada por motivo de la discapacidad y adopte medidas para abolir la práctica de internamiento u hospitalización no consentido. Para el cumplimiento de estas recomendaciones se deberán tener en cuenta las Directrices del Comité sobre el artículo 14 de la Convención.

Chile

29. Al Comité le preocupa el criterio de “peligrosidad” utilizado para determinar la privación de libertad con base en la presencia real o percibida de una discapacidad psicosocial. Asimismo le preocupa el elevado número de personas declaradas inimputables que son internadas durante períodos prolongados en los hospitales psiquiátricos, en su mayoría en el Hospital Philippe Pinel en Putaendo, y la espera injustificada y prolongada para que las causas de internamiento sean revisadas por un juez, lo cual viola las garantías del debido proceso.

30. El Comité recomienda al Estado parte que revise el criterio de peligrosidad que determina el internamiento forzado en centros psiquiátricos. Asimismo le recomienda revisar y reformar su Código Penal con el objeto de proteger efectivamente las garantías del debido proceso de las personas con discapacidad, particularmente con discapacidad psicosocial y/o intelectual, proporcionando los apoyos que requieran durante los procesos judiciales, considerando el género y la edad.

31. Al Comité le preocupa el internamiento de personas en hospitales psiquiátricos u otro tipo de centros residenciales de larga estadía, por motivo de deficiencia, a requerimiento de la familia y sin el consentimiento libre e informado de la persona afectada.

32. El Comité recomienda al Estado parte que prohíba la institucionalización forzada por motivo de la discapacidad.

Lithuania

29. The Committee is concerned that the Law on Mental Health (1995), the draft amendment to the Law on Mental Health Care and the Civil Code of 2000 allow for persons with psychosocial disabilities to undergo involuntary hospitalization and non- consensual treatment and to be subjected to indefinite or temporary restraints.

30. The Committee is also concerned at the lack of statistical data on the non-consensual treatment of persons with psychosocial disabilities, including when a guardian or family member consented to the treatment.

31. The Committee recommends that the State party:

(a) Immediately repeal laws permitting deprivation of liberty based on impairment, forced treatment and the use of restraints and seclusion, and enact new legislation, prohibiting those practices, including within the current draft amendment to the Law on Mental Health Care;

(b) Involve organizations representing persons with psychosocial disabilities in the development of new legislation;

(c) Collect and use data to monitor and eliminate all forms of involuntary hospitalization and treatment of persons with psychosocial disabilities.

Portugal

32. The Committee is concerned that the State party's Criminal Procedure Code declares persons with psychosocial disabilities to be criminally irresponsible, and that their legal safeguards are not respected in criminal proceedings. Likewise, it is concerned about the internment of persons with disabilities based on the concept of dangerousness, as well as deprivation of liberty on the basis of disability under the Mental Health Law (Law 36/1998 and Law 101/1999).

33. The Committee requests that the State party, in accordance with the Convention and the Committee guidelines on article 14 (2015),:

(a) Review its criminal law in order to ensure all persons with disabilities enjoy equal due process guarantees, including the presumption of innocence and the right to a fair trial, on equal basis with others, by providing procedural and reasonable accommodations and access to information and communication at the request of legal and/or administrative proceedings concerning deprivation of liberty; and,

(b) Remove from its criminal law the dangerousness criterion and the preventive and security measures linked with that, in cases where a person with psychosocial disability is accused of a criminal offence, eliminate the possibility of deprivation of liberty under this criterion, and repeal provisions of the Mental Health Law which permit deprivation of liberty on the basis of disability.

Serbia

25. The Committee is concerned that the Law on the Protection of Persons with Mental Disabilities permits the deprivation of liberty on the basis of impairment and provides for involuntary hospitalization and forced institutionalization of children and adults with intellectual and/or psychosocial disabilities.

26. The Committee urges the State party to repeal laws, including the law on the protection of persons with mental disabilities, and prohibit impairment-based detention of children and adults with disabilities, including involuntary hospitalization and forced institutionalization, and ensure that all relevant legislation and policies in this area are in line with the Convention as interpreted in the Committee's guidelines on art. 14. It should also accelerate deinstitutionalization in consultation with organizations of persons with disabilities and the development of support services in the community.

Slovakia

43. The Committee is concerned about legislation that allows for the deprivation of liberty of persons with disabilities on the basis of their impairment. It is also concerned about the situation experienced by persons with intellectual and psychosocial disabilities who appear to be involved in the commission of crimes.

44. The Committee recommends that the State party repeal provisions allowing for involuntary hospitalization under the Health Care Act and imposition of institutional forensic

treatment under the Criminal Code. It also recommends that the State party apply the rules of due process to all persons with disabilities, according to the Committee's guidelines on the right to liberty and security of persons with disabilities.

Thailand

29. The Committee is concerned that national laws provide for involuntary detention on the basis of impairment. It is also concerned about the lack of information on the safeguards and guarantees in place in the criminal justice system for persons with disabilities who are declared unfit to stand trial, the detention of persons based on that declaration and the application of security measures, often for an indefinite period of time.

30. The Committee recommends that the State party repeal all legislation that authorizes institutionalization on the basis of impairment without the free and informed consent of the person, including cases where consent is substituted by a third party. It also recommends that the declaration of unfitness to stand trial be removed from the criminal justice system and that the State party review the procedures used to penalize persons with disabilities when they commit criminal offences in order to ensure due process guarantees for persons with disabilities on an equal basis with others, for example, the presumption of innocence and the rights to defence and to a fair trial.

Uganda

26. The Committee is concerned about the deprivation of liberty of persons with disabilities on the basis of impairment, according to the provisions of the 1971 Trial on Indictments Act and article 23 (1) (f) of the Constitution.

27. The Committee recommends that the State party:

(a) Repeal all constitutional and legal provisions that provide for forced detention on the basis of impairment and involuntary institutionalization of persons with disabilities;

(b) Repeal legislative and other provisions that allow for detention of persons with disabilities, and permit indefinite postponement of criminal proceedings while ordering incarceration which unduly discriminate against persons with disabilities and do not allow for fair trial standards on an equal basis with others.

Brazil

28. The Committee is concerned at reports of the arbitrary deprivation of liberty and involuntary treatment of persons with disabilities on the basis of impairment, including situations where it is assumed that persons with disabilities are dangerous to themselves or others on the basis of a diagnosis of impairment.

29. The Committee recommends the State party to take measures, including the repeal of relevant legal provisions, to abolish the practice of involuntary commitment or hospitalization prohibit forced medical treatment, in particular, psychiatric treatments, on the basis of impairment and provide sufficient community-based alternatives.

30. The Committee is concerned that persons with disabilities who are deemed not liable for the commission of a crime on the basis of impairment may be subject to security measures, including indefinite detention. The Committee is also concerned about arbitrary detentions that may amount to inhuman and degrading treatment or torture. It is further concerned about the situation of persons with disabilities deprived of their liberty in prisons and other places of detention, which are severely overcrowded and where physical and psychological ill-treatment of inmates becomes a norm, as stated by the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment at the end of his official visit to Brazil in August 2015.

31. The Committee recommends the State party to:

(a) Abolish security measures that involve the arbitrary detention of persons with disabilities on the basis of impairment and implement alternative measures that are consistent with articles 14 and 19 of the Convention; and

(b) Ensure that penitentiary facilities are accessible and provide reasonable accommodation for persons with disabilities.

European Union

40. The Committee is concerned about the involuntary detention of persons with disabilities in psychiatric hospitals or other institutions on the basis of actual or perceived impairment.

41. The Committee recommends that the European Union take all possible measures to ensure the liberty and security of all persons with all types of disabilities in line with the Convention and the Committee's Guidelines on article 14 (2015).

Gabon

32. The Committee is concerned about the involuntary detention of persons in specialised institutions on the basis of their impairment as well as the deprivation of liberty based on disability, including psychosocial disability.

33. The Committee recommends that the State party repeal all legislation that authorises institutionalisation without the free and informed consent of the person, including cases where consent is substituted by a third party, and repeal laws that allow for the deprivation of liberty on the basis of disability.

34. The Committee is concerned about the lack of information about persons with disabilities who are allegedly involved in crimes and about the application of the rule of law in such cases.

35. The Committee recommends that the State party ensure that all persons with disabilities, particularly persons with psychosocial or intellectual disabilities, are guaranteed the same substantive and procedural guarantees as others in the context of criminal proceedings, including the presumption of innocence and the right to a fair trial.

Kenya

27. The Committee notes with concern that persons with disabilities can be detained on the basis of actual or perceived impairment, alleged danger of persons to themselves or to others and alleged need of concealment and/or treatment which is incompatible with the Convention. It is also concerned that persons with disabilities who are considered of "unsound mind" and/or "insane" can be subjected to deprivation of liberty and that they are not entitled to the same guarantees as other persons in the criminal procedures.

28. The Committee recommends that the State party:

(a) Amend legislation to prohibit involuntary placement in particular, to repeal provisions of the Mental Health Act (1989), amend Person Deprived of Liberty Act 2015 which allows detention for purposes of psychiatry treatment and ensure that new legislation is fully compatible with article 14 of the Convention in all cases; and

(b) Repeal the provisions of the Criminal Procedure Code Section 166 concerning the declaration of "insanity" and reaffirm the right to fair trial of persons with disabilities in accordance with the paradigm of the Convention.

Mauritius

25. The Committee is concerned that the legislation of the State party provides for the involuntary hospitalization and institutionalization of persons with disabilities, including children on the basis of their impairments or because they are deemed to represent a danger for themselves and for the society, and that no data is available in this respect.

26. The Committee recommends that the State party amend legislation to prohibit involuntary placement and promote alternative measures in line with the Convention.

Qatar

27. The Committee is concerned about the involuntary detention of persons in specialised institutions on the basis of their impairment as well as the deprivation of liberty based on disability, including intellectual and/or psychosocial disabilities. It is also concerned that

persons with intellectual and/or psychosocial disabilities accused of an offence are declared unfit to stand trial and not given due process. It is also concerned that victims of crimes who are persons with intellectual and/or psychosocial disabilities may be temporarily placed in institutions while their case is being resolved.

28. The Committee recommends that the State party repeal all legislation that authorises institutionalisation without the free and informed consent of the person, including cases where consent is substituted by a third party, and repeal all laws that allow for the deprivation of liberty on the basis of disability. It also recommends that the State party ensure that persons with disabilities accused of an offence are entitled to the provision of procedural accommodations and a fair trial and due process guarantees on an equal basis with others, including the presumption of innocence.

Ukraine

30. The Committee notes with concern that the State party's law "On psychiatric assistance" allows for non-consensual institutionalization and treatment of persons based on their impairments. Furthermore, the Committee is concerned that despite the improvements in the State party's Penal Code from April 2014, the challenges in relation to access to hygiene products, medical and technical facilities for persons with disabilities in penitentiary institutions still remain.

31. The Committee urges the State party to repeal laws that allow for deprivation of liberty on the basis of impairment. The Committee also recommends that the State party take measures to implement its legislation providing for reasonable accommodation in prisons in order not to aggravate incarceration conditions based on disability.

Cook Islands

27. The Committee is concerned about the deprivation of liberty of persons with psychosocial disabilities, and their removal to medical facilities in New Zealand. Furthermore, the Committee is concerned with the lack of provision of reasonable accommodation to prisoners with disabilities

28. The Committee recommends that the State party:

- (a) Repeal all legislation to prohibit detention on the grounds of disability, including involuntary placement in hospitals, institutions or prisons;**
- (b) Ensure provision of reasonable accommodation to prisoners with disabilities.**

Croatia

19. The Committee is concerned that people with disabilities are subjected to involuntary detention and admission in institutions on the basis of their impairment. Of particular concern is the practice of detaining involuntarily people with psycho-social and intellectual disabilities.

20. The Committee recommends repealing legal provisions which permit involuntary commitment on the basis of impairment and that laws, including the Act on Protection of Persons with Mental Disorders, are aligned with the Convention.

21. The Committee is concerned that there is a lack of information about people with disabilities allegedly involved in crimes and about the application of the rule of law in these cases.

22. The Committee recommends the State party to review procedures and practices related to investigation, prosecution, and treatment of persons with disabilities committing criminal offences. It is recommended to examine whether the general safeguards and legal standards of criminal justice, i.e. the presumption of innocence, the right to fair trial apply. The Committee's statement on article 14 of the Convention is recommended as guidelines in this regard.

Czech Republic

26. The Committee notes with concern that persons with disabilities may still be deprived of their liberty on basis of their disability under provisions of the Act on Social Services, the Health Services Act, the Act on Special Judicial Procedures, the Criminal Code and the Civil Procedure Code.

27. The Committee urges the State party to amend aforementioned legislations and fully harmonize their provisions with provisions of article 14 of the Convention. As a guideline it is recommended to take a recent statement of the Committee on article 14 into account.

28. The Committee recommends that the State party adopt a policy to initiate a structural review of the procedures used to sanction persons with disabilities when they commit criminal offences. The system should comply with the general safeguards and guarantees established for all persons accused of a crime in the criminal justice system, inter alia, the presumption of innocence, and the right to defence and to a fair trial. The Committee also recommends the application of reasonable accommodation in prisons in order not to aggravate incarceration conditions based on disability.

Dominican Republic

26. The Committee is concerned that persons with psychosocial disabilities are being institutionalized in the Padre Billini Centre without their free and informed consent.

27. The Committee recommends that the State party adopt a mechanism to ensure that persons with disabilities, particularly psychosocial disabilities, can give their free and informed consent on placement in psychiatric centres.

28. The Committee notes with concern the absence of procedural safeguards for persons with psychosocial disabilities in criminal proceedings. It is also concerned that the internment of persons with disabilities is based on the concept of dangerousness.

29. The Committee calls on the State party to:

(a) Review its criminal law in order to ensure that all persons with disabilities have guarantees of due process, on an equal basis with others, and are provided with the necessary reasonable accommodation and access to information and communication at the various stages of administrative and judicial proceedings for deprivation of liberty;

(b) Remove from its criminal law the concept of dangerousness in cases where a person with psychosocial disabilities is accused of a crime, as well as the deprivation of liberty based on the same criterion.

Germany

29. The Committee is concerned about the widespread practice of involuntary placement in institutions of persons with psychosocial disabilities, the lack of protection of their privacy and the lack of available data on their situation.

30. The Committee recommends that the State party take all the immediate necessary legislative, administrative and judicial measures to:

(a) Amend legislation to prohibit involuntary placement and promote alternative measures that are in keeping with articles 14, 19 and 22 of the Convention;

(b) Implement an independent inquiry using a human rights-based review of psychiatric services for persons with disabilities, their privacy, and the collection of relevant data.

31. The Committee notes with concern the lack of information about persons with disabilities in the criminal justice system that have been declared unfit to stand trial, the detention of persons based on that declaration, and the application of safety measures, often for an indefinite period of time.

32. The Committee recommends that the State party:

(a) Initiate a structural review of the procedures used to penalize persons with disabilities when they commit criminal offences;

- (b) Ensure that persons with disabilities have equal access to due process guarantees established for all persons accused of a crime in the criminal justice system, inter alia, the presumption of innocence, the right to defence and to a fair trial;
- (c) Ensure reasonable accommodation in places of detention.

Mongolia

25. The Committee is concerned that there are insufficient legal safeguards, other than references to Constitution, to ensure persons with intellectual and psychosocial disabilities are protected from forced hospitalization and institutionalization. The Committee is concerned about the lack of information on people with disabilities allegedly involved in crimes, and whether the rules of due process apply in these cases.

26. The Committee recommends that the State party adopt a policy to initiate a structural review of the procedures used to sanction persons with disabilities when they commit criminal offences. The system should comply with the general safeguards and guarantees established for all persons accused of a crime in the criminal justice system, inter alia, the presumption of innocence, and the right to defence and to a fair trial. The Committee also recommends the application of reasonable accommodation in prisons in order not to aggravate incarceration conditions for persons with disabilities.

Turkmenistan

29. The Committee is concerned that there is no available data on persons with disabilities who are involuntary placed on psychiatric facilities. It is also concerned that these orders are reported generally based on the alleged “dangerousness” of the person with disabilities, partly based on the concept of insanity.

30. The Committee recommends that the State party:

(a) Repeal the laws that allow for the deprivation of liberty on the basis of disability and potential “dangerousness”, with a view to prohibiting disability-based forced detention of children and adults with disabilities;

(b) Ensure that the general safeguards and guarantees established for all persons accused of a crime in the criminal justice system, inter alia, the presumption of innocence, and the right to defence and to a fair trial as well as reasonable accommodation in prisons are provided for persons with disabilities on an equal basis with others.

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New Zealand

29. The Committee is concerned that the Mental Health (Compulsory Assessment and Treatment) Act 1992 has been criticized for its lack of human rights principles.

30. The Committee recommends that the State party take all the immediate necessary legislative, administrative and judicial measures to ensure that no one is detained against their will in any medical facility on the basis of actual or perceived disability. The Committee also recommends that the State party ensure that all mental health services are provided on the basis of the free and informed consent of the person concerned, in accordance with the Convention. The Committee further recommends that the Mental Health (Compulsory Assessment and Treatment) Act 1992 be amended to comply with the Convention.

31. The Committee notes that the State party continues to allow the use of seclusion and restraints in psychiatric hospitals. Although there has been a decline in this practice, the situation is not satisfactory.

32. The Committee recommends that immediate steps be taken to eliminate the use of seclusion and restraints in medical facilities.

33. The Committee is concerned that the criminal justice system in New Zealand includes conditions in which a person with disabilities can be declared “unfit to stand trial” and on that basis can be deprived of liberty. The system does not recognize that a person with disabilities

should only be deprived of liberty when found guilty of a crime, after criminal procedure has been followed, with all the safeguards and guarantees applicable to everyone.

34. The Committee recommends that the State Party review the criminal justice system to ensure that criminal procedure is followed in accordance with all the safeguards and guarantees that are applicable to non-disabled persons, and that deprivation of liberty should be applied as a matter of last resort and when other diversion programmes, including restorative justice, are insufficient to deter future crime. The Committee also recommends that the State Party ensure that reasonable accommodation in prison settings operates in respect of persons with disabilities.

Denmark

34. The Committee is concerned at the distinction made by the State party between punishment and treatment, according to which persons considered “unfit to stand trial” on account of their impairment are not punished but are sentenced to treatment. Treatment is a social control sanction and should be replaced by formal criminal sanctions for offenders whose involvement in crime has been determined. The procedure applied when determining whether a person should be sentenced to treatment is not in accordance with the safeguards that a criminal procedure should have if it may result in a sanction being imposed on a person. Sentencing a person to treatment is therefore incompatible with article 14.

35. The Committee recommends that the State party adopt a policy to initiate a structural review of the procedures used to sanction persons with disabilities when they commit criminal offences. The system should comply with the general safeguards and guarantees established for all persons accused of a crime in the criminal justice system, inter alia, the presumption of innocence, and the right to defence and to a fair trial.

36. The Committee is concerned that the Psychiatric Act allows for compulsory hospitalization or treatment in a medical facility in respect of a person with mental health impairments, against her or his will, if the person is considered to be a danger to herself or himself or to others, which amounts to a deprivation of liberty or security on the basis of disability, contrary to article 14 of the Convention.

37. The Committee recommends that the State party take all necessary measures, including revision of the Psychiatric Act, to ensure that persons with disabilities enjoy the right to liberty and security of person. The Committee recommends that the State party ensure that no one will be detained in any facility on the basis of actual or perceived disability.

Republic of Korea

25. The Committee is concerned that the existing legal provisions in the Mental Health Act, as well as the draft amendment to the Act, allow for deprivation of liberty on the basis of disability. It is also concerned about the high rate of institutionalization, including long-term institutionalization, of persons with psychosocial disabilities without their free and informed consent.

26. The Committee recommends that the State party repeal the existing legal provisions allowing for the deprivation of liberty on the basis of disability, including a psychosocial or intellectual disability, and adopt measures to ensure that health-care services, including all mental health care services, are based on the free and informed consent of the person concerned. The Committee also recommends that until the law is amended, all cases of deprivation of liberty of persons with disabilities in hospitals and specialized institutions be reviewed and that the review include a possibility of appeal.

27. The Committee is concerned about the lack of information on the safeguards and guarantees in force to ensure persons with disabilities who are declared unfit to stand trial the right to a fair trial in the Republic of Korea. The Committee notes the information provided by the State on the provision of legal aid for such persons and the rendering of not-guilty verdicts; however, no information was provided on the actual measures the Republic of Korea applies as sanctions for those persons considered unfit to stand trial.

28. The Committee recommends the establishment of procedural accommodations that ensure fair trial and due process guarantees for persons with disabilities. It also recommends that the declaration of unfitness to stand trial be removed from the criminal justice system in order to allow due process for persons with disabilities on an equal basis with others.

Belgium

25. The Committee is concerned that the Act on mental health adopted in 1990 allows for the involuntary hospitalization of persons with psychosocial disabilities.

26. The Committee recommends that the State party repeal laws providing for the involuntary hospitalization of persons with psychosocial disabilities on the basis of their disability.

27. The Committee is concerned that the new Act on the Confinement of Persons, adopted in May 2014, which governs safety measures applicable to persons who have been deprived of legal capacity, is not in conformity with the Convention. The measures are forms of social punishment that are adopted not on the basis of the principle of proportionality, but rather in response to a person's perceived "dangerous" state. The procedure used to put in place safety measures for persons who have been deprived of legal capacity is not in accordance with the procedural guarantees established in international human rights law, such as, inter alia, the presumption of innocence, the right to a defence and the right to a fair trial.

28. The Committee recommends that the State party revise the Act of May 2014 to remove the system of safety measures applicable to persons with disabilities who have been deprived of legal capacity. Persons with disabilities who have committed a crime should be tried under the ordinary criminal procedure, on an equal basis with others and with the same guarantees, although with specific procedural adjustments to ensure their equal participation in the criminal justice system.

29. The Committee also recommends that the State party should guarantee the right to reasonable accommodation for all persons with disabilities who are detained in prison; ensure their access to health care on an equal footing with others, on the basis of their free and informed consent, and to the same level of health care as that provided in society at large; establish an independent formal complaints mechanism accessible to all persons detained in prisons or in forensic institutions; and repeal extrajudicial intervention programmes that involuntarily commit individuals to mental health establishments or force them to register with the mental health services. The provision of these services should be based on the free and informed consent of the person concerned.

Ecuador

28. The Committee is concerned that the State party considers that certain persons with disabilities, specifically those who have been abandoned and classified as "serious and chronic cases of oligophrenia", remain institutionalized and do not have the necessary support to live in the community. The Committee is also concerned that the State party has not taken action to guarantee due process for persons with disabilities accused of having committed an offence. It is also concerned that declaring persons with disabilities unfit to stand trial is a pretext for applying security measures involving their indefinite deprivation of liberty and that they are not entitled to the same guarantees as other persons in the criminal justice system.

29. The Committee recommends that the State party: (a) Draw up a comprehensive deinstitutionalization plan for persons currently in the Julio Endara Psychiatric Hospital that ensures their personal safety and provides them with the guarantees enabling them to exercise their right to be included in the community. The comprehensive plan must include actions to guarantee the accommodation, food and personal assistance services they require to ensure their full inclusion; (b) Refrain from declaring persons with disabilities unfit to stand trial when they are accused of an offence so that they are entitled to due process, on an equal basis with others, and that the general guarantees of criminal law and

procedure are observed; (c) Eliminate the security measures that involve forced medical and psychiatric treatment in institutions and promote alternative measures that are in keeping with articles 14 and 19 of the Convention; (d) Ensure that all mental health services are delivered with the free and informed consent of the person concerned.

Mexico

27. The Committee notes with concern that persons with intellectual or psychosocial disabilities have frequently been the subject of declarations of non-liability in the context of criminal proceedings, in the absence of procedural safeguards. It is also concerned that the reform of the Code of Criminal Procedure maintains non-liability by reason of disability as a concept in the legal system.

28. The Committee recommends that the State party:

(a) Adopt the necessary measures to guarantee due process for persons with disabilities in the context of criminal proceedings, whether as indicted persons, victims or witnesses, and define specific criteria for making reasonable accommodations during such proceedings;
(b) Promote training mechanisms for justice and prison officials in accordance with the Convention's legal paradigm.

29. The Committee is concerned that Mexican legislation authorizes deprivation of liberty in the case of persons with intellectual and psychological disabilities, on the ground of their disability; in particular, that provision is made for their confinement in psychiatric institutions in the context of medical or psychiatric treatment.

30. The Committee urges the State party to:

(a) Eliminate security measures that mandate medical and psychiatric inpatient treatment and promote alternatives that comply with articles 14 and 19 of the Convention;
(b) Repeal legislation permitting detention on grounds of disability and ensure that all mental health services are provided based on the free and informed consent of the person concerned.

Sweden

35. The Committee is concerned that Swedish law allows for a person to be confined against his or her will in a medical facility if he or she has a psychosocial disability and is considered to be a danger to himself or herself or to others. The Committee is further concerned that the law also allows for compulsory psychiatric care in medical institutions or within the community.

36. The Committee recommends that the State party take all the immediate necessary legislative, administrative and judicial measures to ensure that no one is detained against their will in any medical facility on the basis of actual or perceived disability. The Committee also recommends that the State party ensure that all mental health services are provided with the free and informed consent of the person concerned. It recommends that the State allocate more financial resources to persons with intellectual and psychosocial disabilities who require a high level of support, in order to ensure that there are sufficient community-based outpatient services to support persons with disabilities.

Azerbaijan

28. The Committee is concerned that the law permits the deprivation of liberty based on disability and provides for involuntary hospitalisation and forced institutionalisation of children and adults with intellectual and/or psychosocial disabilities. The Committee is particularly concerned at reports of poor health care in such places.

29. The Committee urges the State party to repeal laws and prohibit disability based detention of children and adults with disabilities including involuntary hospitalisation and forced institutionalisation and ensure that all relevant legislation and policies in this area are in line with the Convention. It should also develop support services in the community and

accelerate deinstitutionalisation strategies based on the human rights model of disability in consultation with DPOs.

30. The Committee is concerned at reports of poor living conditions of persons with disabilities in certain places of deprivation of liberty.

31. The Committee calls upon the State party to ensure that all places of deprivation of liberty, particularly prisons, maintain accessible and humane living conditions in line with the Convention. In this regard, the State party should ensure that monitoring bodies such as the Office of the Ombudsman and the National Preventive Mechanism have sufficient resources and unimpeded access to all places of deprivation of liberty in the State party.

Costa Rica

29. The Committee is concerned about the situation of persons with disabilities who have been institutionalized on grounds of their disability and women and children with disabilities who are in a situation of abandonment or abuse, and the fact that their disability is the reason for their institutionalization.

30. The Committee calls on the State party to implement strategies to deinstitutionalize persons with disabilities and to protect them from violence, abuse and ill-treatment of any kind through ongoing monitoring by the Ombudsman's Office or other independent human rights monitoring mechanism.

Australia

31. The Committee is concerned that persons with disabilities, who are deemed unfit to stand trial due to an intellectual or psychosocial disability can be detained indefinitely in prisons or psychiatric facilities without being convicted of a crime, and for periods that can significantly exceed the maximum period of custodial sentence for the offence. It is equally concerned that persons with disabilities are over-represented in both the prison and juvenile justice systems, in particular women, children and Aboriginal and Torres Strait Islander peoples with disability.

32. The Committee recommends that the State party, as a matter of urgency:

(a) Ends the unwarranted use of prisons for the management of un-convicted persons with disabilities, with a focus on Aboriginal and Torres Strait Islander persons with disabilities, by establishing legislative, administrative and support frameworks that comply with the Convention;

(b) Establishes mandatory guidelines and practice to ensure that persons with disabilities in the criminal justice system are provided with appropriate supports and accommodation;

(c) Reviews its laws that allow for the deprivation of liberty on the basis of disability, including psychosocial or intellectual disabilities, and repeal provisions that authorize involuntary internment linked to an apparent or diagnosed disability.

33. The Committee is further concerned that under Australian law, a person can be subjected to medical interventions against his or her will, if the person is deemed to be incapable of making or communicating a decision about treatment.

34. The Committee recommends that Australia should repeal all legislation that authorises medical interventions without free and informed consent of the persons with disabilities concerned, and legal provisions that authorize commitment of individuals to detention in mental health services, or the imposition of compulsory treatment either in institutions or in the community via Community Treatment Orders (CTOs).

Austria

29. The Committee is deeply concerned that Austrian laws allow for a person to be confined against his or her will in a psychiatric institution where they have a psychosocial disability and it is forecast that they might endanger themselves or other persons. The Committee is of the opinion that the legislation is in conflict with article 14 of the Convention because it allows a person to be deprived of their liberty on the basis of their actual or perceived disability.

30. The Committee urges the State Party to take all necessary legislative, administrative and judicial measures to ensure that no one is detained against their will in any kind of mental health facility. It urges the State party to develop deinstitutionalization strategies based on the human rights model of disability.

31. The Committee also urges the State party to ensure and that all mental health services are provided based on the free and informed consent of the person concerned. It recommends that the State allocate more financial resources to persons with intellectual and psychosocial disabilities who require a high level of support, in order to ensure that there are sufficient community based outpatient services to support persons with disabilities.

El Salvador

31. The Committee is concerned that disability constitutes grounds for deprivation of liberty in the State party. The Committee regrets the lack of information about the situation of persons with psychosocial or intellectual impairments who are held in psychiatric centres and other institutions and about legal remedies available to challenge involuntary institutionalization. The Committee is concerned at the lack of reasonable accommodation for persons with disabilities held in prisons and other detention centres.

32. The Committee calls on the State party to abolish the rules that allow for deprivation of liberty on grounds of disability, give persons with disabilities the ability to hurt themselves or others and mandate care or treatment. It urges the State party to define adequate health-care procedures, such as making psychological care contingent upon the free and informed consent of the concerned party. The Committee calls on the State party to establish a mechanism to monitor the situation of persons with disabilities in prisons and other detention centres and to set up a legal framework for the provision of reasonable accommodation that preserves their dignity.

Paraguay

33. The Committee regrets the lack of information on persons with disabilities who have been committed to institutions against their will, or on the procedures that make involuntary committal possible.

34. The Committee urges the State party to have an independent human rights mechanism gather information on persons with disabilities in institutions, oversee and monitor the situation of persons with disabilities who have been placed in institutions and launch a procedure for their reintegration into society and the community.

35. The Committee notes with concern that the State party is adopting measures on the deprivation of liberty on grounds of disability, such as committal of children, women and men with disabilities to homes or psychiatric hospitals without free and informed consent and for lengthy periods of time. Specifically, the Committee is concerned at the measures the State party is adopting to reinforce the model of deprivation of liberty on grounds of disability, as in the Albino Luis and Pequeño Cotelengo homes.

36. The Committee urges the State party to revise its procedures on committal on grounds of disability in order to ensure that persons with disabilities who are subject to those procedures are able to fully exercise their legal capacity as provided in the Convention. It also urges the State party to institute a broad strategy, including a programme to provide support in decision-making, for the inclusion of homeless persons with disabilities in the community, particularly those with intellectual or psychosocial disabilities.

Argentina

23. The Committee notes with concern that involuntary long-term committal is still common in the State party, despite the fact that deinstitutionalization strategies have been adopted and the National Mental Health Act (Act No. 26.657) is based on the human rights model of disability.

24. The Committee urges the State party to implement the deinstitutionalization strategies that it has adopted in an effective manner and to develop and implement mental health plans based on the human rights model of disability, along with effective measures to promote the deinstitutionalization of persons with disabilities.

25. The Committee is concerned that, when a person with a psychosocial or intellectual disability is declared to be exempt from criminal responsibility in criminal proceedings, due process guarantees are not upheld and the person is immediately deprived of his or her liberty without even having been shown to be linked to the event in question.

26. The Committee requests the State party to modify its federal and provincial criminal laws so that decisions regarding the application of security measures to persons found to be exempt from criminal responsibility are taken only after due process guarantees concerning the right to a defence and the right to the assistance of a lawyer, including any adjustments in the proceedings that may be necessary in order to guarantee the exercise of such rights, have been upheld.

China

25. The Committee is concerned that the deprivation of liberty on the grounds of disability is allowed in the state party, and that involuntary civil commitment is perceived as a tool to maintain the public order. In this context, the Committee finds it disturbing that many persons with actual or perceived impairments are involuntarily committed to psychiatric institutions for various reasons, such as being petitioners. In addition, the Committee is concerned that many persons who indeed live with intellectual and psychosocial impairments and require a high level of support lack the adequate resources for their medical and social care and are thus permanently confined at home.

26. The Committee recommends the abolishment of the practice of involuntary civil commitment based on actual or perceived impairment. In addition, the Committee asks the state party to allocate more financial resources to persons with intellectual and psychosocial disabilities who require a high level of support, in order to ensure social support and medical treatment outside their own home when necessary.

Hungary

27. The Committee notes with appreciation that the State party is dedicated to undertaking measures to provide reasonable accommodation to persons with disabilities that are deprived of their liberty. It also notes with appreciation that "personal liberty is assured by making use of the services voluntarily" (paragraph 87 of the State party's report: CRPD/C/HUN/1). However, the Committee is concerned about the situation faced by persons under guardianship, where the decision of institutional care is made by the guardian instead of the person him/herself, and guardians are authorised to give consent to mental health care services on behalf of their ward. The Committee further regrets that disability, in some cases, can be the ground for detention.

28. The Committee recommends that the State party review provisions in legislation that allow for the deprivation of liberty on the basis of disability, including mental, psychosocial or intellectual disabilities, and adopt measures to ensure that health care services, including all mental health care services, are based on the free and informed consent of the person concerned.

Peru

28. The Committee notes with concern that article 11 of the General Health Law No. 26842 permits involuntary detention for people with "mental health problems", defined to include people with psychosocial disabilities as well as persons with a "perceived disability" (persons with a drug or alcohol dependence).

29. The Committee calls upon the State party to eliminate Law 29737 which modifies article 11 of the General Health Law, in order to prohibit the deprivation of liberty on the basis of disability, including psychosocial, intellectual or perceived disability.

Spain

35. 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.

36. 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

24. With reference to article 14 of the Convention, the Committee is concerned that having a disability, including an intellectual or psychosocial disability, can constitute a basis for the deprivation of liberty under current legislation.

25. The Committee recommends that the State party repeal legislative provisions which allow for the deprivation of liberty on the basis of disability, including a psychosocial or intellectual disability. The Committee further recommends that until new legislation is in place, all cases of persons with disabilities who are deprived of their liberty in hospitals and specialized institutions be reviewed, and that the review include the possibility of appeal.