



Convention on the Rights of Persons with Disabilities

Distr.: General
31 August 2016

Original: English
English, French and Spanish only

ADVANCE UNEDITED
VERSION

Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Italy

Draft prepared by the Committee

I. Introduction

1. The Committee considered the initial report of Italy (CRPD/C/ITA/1) at its 283rd and 284th meetings, held on 24 and 25 August 2016, respectively, and adopted the following concluding observations at its 294th meeting, held on 1st September 2016.
2. The Committee welcomes the initial report of Italy, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for the written replies (CRPD/C/ITA/Q/1/Add.1) to the list of issues prepared by the Committee.
3. The Committee appreciates the constructive dialogue held with the State party's delegation and welcomes the further clarifications provided in response to the questions posed orally by the Committee.

II. Positive aspects

4. The Committee notes with appreciation the decision on the National Disability Action Plan in 2010 and the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence - the Istanbul Convention -in 2013. It commends the State party which has, for the last 3 decades, been striving to implement its inclusive education system free of segregation.

III. Principal areas of concern and recommendations

A General principles and obligations (arts. 1–4)

5. The Committee is concerned that there are multiple definitions of disability across sectors and regions leading to disparity in access to support and services. Further, disability continues to be defined through a medical perspective, and the revised concept of disability, as proposed by the National Observatory on the Status of Persons with Disabilities is also not aligned to the Convention and lacks binding legislation at both national and regional levels.

6. The Committee recommends adopting a concept of disability in line with the Convention and ensure legislation is enacted that incorporates the new concept in a homogeneous manner across all levels and regions of government and territories.

7. The Committee is concerned about the lack of consultation with persons with disabilities through their representative organisations, and by the fact that the National Observatory of the Status of Persons with Disabilities is not a permanent consultative body. The Committee is further concerned by the grave neglect of prioritising the input from organisations of persons with disabilities by treating all stakeholder views equally and thereby limiting the range of input from persons with disabilities, including women and children with disabilities, participating in direct decision-making processes.

8. The Committee recommends that a permanent consultative body be established which effectively and meaningfully consults with persons with disabilities through their representative organisations in the development of all laws, policies and programmes, and that a broad range of persons with disabilities that reflect the diversity of people's backgrounds, including age, sex, faith, race, sexual orientation, migrant status and impairment groups meaningfully participate in an inclusive and accessible manner in direct decision-making process that affects the lives of persons with disabilities at all levels and within all sectors of the State party.

B. Specific rights (arts. 5-30)

Equality and non-discrimination (art. 5)

9. The Committee is concerned that national legislation lacks a definition of reasonable accommodation and does not include an explicit recognition that the denial of reasonable accommodation constitutes disability-based discrimination.

10. The Committee recommends the State party immediately adopt a definition of reasonable accommodation aligned to the Convention and enacts legislation that explicitly recognises the denial of reasonable accommodation as disability-based discrimination across all areas of life including within public and private sectors.

11. The Committee is concerned about the absence of legislation and mechanisms with a mandate that addresses multiple discrimination, including effective sanctions and remedies.

12. The Committee recommends enacting appropriate legislation and policies designating enforcement mechanisms to address multiple and intersectional discrimination, including effective sanctions and remedies, providing training to all departments and ensure persons with disabilities have information on lodging complaints and seeking remedies. The Committee recommends that the State party take into account article 5 of the Convention while implementing Sustainable Development Goal 10, targets 10.2 and 10.3

Women with Disabilities (art.6)

13. The Committee is concerned that there is no systematic mainstreaming of women and girls with disabilities across the gender equality agenda, as well as across the disability agenda.

14. The Committee recommends that gender is mainstreamed in disability policies and disability is mainstreamed in gender policies, both in close consultation with women and girls with disabilities and their representative organisations. The Committee recommends that the State party take into account article 6 of the

Convention and the Committee's General Comment no. 3 while implementing Sustainable Development Goal 5, targets 5.1, 5.2 and 5.5

Children with Disabilities (art. 7)

15. The Committee is concerned that nationwide data on the number of children with disabilities aged 0-5 years, disaggregated by age, disability and sex is insufficient in scope and detail to understand the situation of children with disabilities.

16. The Committee recommends immediate improvement of data collection to ensure early detection, intervention and service provision for all children with disabilities, particularly for the 0-5 age group.

17. The Committee is concerned the policy framework for addressing child poverty for those with disabilities is inadequate, and monitoring mechanisms are absent.

18. The Committee recommends that policies aimed at addressing child poverty specifically include children with disabilities through their representative organisations, and that the monitoring of the implementation and on levels of poverty amongst children with disabilities is undertaken in close consultation with the children and their families living in poverty.

Awareness-raising (art.8)

19. The Committee is concerned about the lack of effective and appropriate measures to promote the capabilities of persons with disabilities and lack of measures to combat stereotypes and prejudices through public awareness campaigns and the use of mass media.

20. The Committee recommends adopting measures to raise public awareness using mass media campaigns and training personnel working in mass media about the negative effects of stereotypes and the importance of portraying positive contributions of persons with disabilities, in particular of women and girls with disabilities.

Accessibility (art. 9)

21. The Committee is concerned about insufficient information on complaints and monitoring of accessibility standards, including within the use of public procurement, and the lack of enforcement and sanctions for non-compliance.

22. The Committee recommends the State party to strengthen data collection, monitoring and sanctions mechanisms, including within public procurement laws and policies, to ensure accessibility standards are complied with. This must include website accessibility, emergency services, public transport, buildings and infrastructure. The Committee recommends that the State party pay attention to the links between article 9 of the Convention and the Committee's general comment No. 2 (2014) on accessibility as well as Sustainable Development Goal 11, targets 11.2 and 11.7 to provide access to safe, affordable, accessible and sustainable transport systems for all, notably by expanding public transport, with special attention to the needs of persons with disabilities; and provide universal access to safe, inclusive and accessible, green and public spaces, particularly for persons with disabilities.

23. The Committee is concerned about insufficient data concerning the limited availability of accessible communications across the public sector, including the education sector.

24. The Committee recommends an audit and action plan to ensure the provision of live assistance and intermediaries including guides, readers and professional sign language interpreters, and augmentative and alternative communication across all

public sectors. In particular, augmentative and alternative communication must be provided free of charge in the education sector.

Situations of risk and humanitarian emergencies (art. 11)

25. The Committee is concerned about refugees, migrants and asylum seekers with disabilities arriving in the State party, especially those with psychosocial disabilities, in accessing appropriate processing facilities and mental health support, including counselling.

26. The Committee recommends all persons with disabilities arriving in the State party are able to access facilities on an equal basis with others, and those with psychosocial disabilities are given appropriate support and rehabilitation through strengthened systems. The Committee recommends the ratification of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and of the 2016 Charter on Inclusion of Persons with Disabilities in Humanitarian Action.

Equal recognition before the law (art. 12)

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

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

Access to justice (art. 13)

29. The Committee is concerned with the lack of training of personnel on anti-discrimination in the judicial and law enforcement sector with regard to equal rights to all aspects of marriage and family life for persons with disabilities and combatting of negative stereotyping is insufficient.

30. The Committee recommends the State party provide training to personnel in the judicial and law enforcement sector on the right of all persons with disabilities to marriage, family, parenthood and relationships, on an equal basis with others, including their right to retain fertility and found a family as outlined in article 23 of the Convention.

31. The Committee is concerned at the inaccessibility of the justice system with regard to information and communications.

32. The Committee recommends the provision of full procedural accommodations including professional sign language interpretation, and information in easy-to-read and Braille formats. The Committee recommends that the State party take into account article 13 of the Convention while implementing Sustainable Development Goal 16, target 16.3

Liberty and security of the person (art. 14)

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 legal and policy reform that prohibits detention, including involuntary hospitalization and/or treatment, on the grounds of disability,

as outlined above, so 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. Similarly, the Committee is concerned that persons with disabilities declared unfit to plead may be subjected to security measures involving forced deprivation of liberty for an indefinite time.

36. The Committee recommends to repeal criminal laws that allow the declaration of unfitness to plead of persons with intellectual or psychosocial disabilities, allowing the full application of the rules of due process for a fair trial. Similarly, safety measures will 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 to those without disabilities.

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

Freedom of torture or cruel inhuman or degrading treatment or punishment (art. 15)

39. The Committee is concerned about medical experimentation on persons with disabilities without their free and informed consent.

40. The Committee recommends the urgent repeal of all laws that allow legal guardians to consent to medical experimentation on behalf of persons with disabilities.

41. The Committee is concerned that the remit of the mandate of the national preventative mechanism (NPM) does not extend to psychiatric institutions or other residential facilities for persons with disabilities where they are deprived of their liberty.

42. The Committee recommends the NPM immediately visits and reports on the situation in psychiatric institutions or other residential facilities for persons with disabilities, especially those with intellectual and/or psychosocial disabilities.

Freedom from exploitation, violence and abuse (art. 16)

43. The Committee is concerned at the lack of legal provisions and monitoring mechanisms to detect, prevent and combat violence both within and outside the home

44. The Committee recommends the enactment of legislation including monitoring mechanisms to detect, prevent and combat violence both within and outside the home of persons with disabilities, especially for women and children with disabilities, as well as producing an action plan to implement the Council of Europe Convention on preventing and combating violence against women and domestic violence - the Istanbul Convention - which specifically address women and girls with disabilities. In addition, training of police, judiciary, health and social services personnel combined with accessible and inclusive support services to those subjected to violence, including police reporting, complaints mechanisms, shelters and other support measures must be made available.

Protecting the integrity of the person (art. 17)

45. The Committee is concerned that children are subjected to irreversible surgery for intersex variation and other medical treatments without their free and informed consent.

46. **The Committee recommends the State party ensure that no one is subjected to scientific undocumented medical or surgical treatment during infancy or childhood, guarantee bodily integrity, autonomy and self-determination to the children concerned, and provide families with intersex children with adequate counselling and support.**

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

47. The Committee is deeply concerned about the trend to re-institutionalise persons with disabilities and that funds are not being reallocated from institutions towards promoting and ensuring independent living for all persons with disabilities within their community. The Committee further notes with concern the gendered consequences of the current policies where women are “forced” to remain within the family as caregivers of their peers with disabilities instead of being employed in the labour market.

48. **The Committee recommends: a) implementing safeguards to retain the right to autonomous independent living across all regions; and, b) redirect resources from institutionalisation to community-based services and increase budget support to enable persons with disabilities to live independently across the country and have equal access to services including personal assistance.**

Freedom of expression and access to information and communication (art. 21)

49. The Committee is concerned at the lack of official recognition of sign language and its limited use in broadcast purposes. The Committee is also concerned about the lack of acknowledgment of Braille and tactile communication as effective tools for the education of blind or deafblind persons.

50. **The Committee recommends expediting the enactment of legislation with reference to the proposal ‘provisions for the removal of barriers of communication, for the recognition for the Italian Sign Language (LIS) and tactile LIS, as well as the promotion of inclusion for deaf, for deaf-blind persons and hearing disability in general’ and significantly increase the provision of sign language in public broadcasting. The Committee further recommends that the State party takes concrete measures to ensure the teaching of standardized Braille to blind persons and tactile communications to deafblind persons to enable them access information, rather than assistive technology alone.**

Respect for home and family (art. 23)

51. The Committee is concerned at the lack of specific measures to support families of children with disabilities or adults with high levels of support, including financial support.

52. **The Committee recommends the allocation of specific financial, social and other resources across all regions to ensure all families with members with disabilities, including those members with high support needs can access all the support they require, beyond the list of tax exemptions listed by the State party (CRPD/C/ITA/Q/1/Add.1), to ensure the right to home and family as well as inclusion and participation in their local communities, and to eliminate resorting to institutionalisation.**

53. The Committee is deeply concerned that administrative barriers, including inaccessible procedures, still exist to parents with disabilities to adopt children with or without disabilities.

54. The Committee recommends that the State party review current laws, policies and practices relevant to adoption and provide support to parents with disabilities to retain full parental responsibility for their children

Education (art. 24)

55. The Committee is concerned about the absence of data and indicators to monitor the quality of education and inclusion of students with disabilities in mainstream schools and classes, and the quality of teachers education, including pre-service and in-service training on inclusive education, and the lack of implementation of laws, decrees and regulations on inclusive education.

56. The Committee recommends implementing an action plan with sufficient resources, timelines and specific goals for monitoring the implementation of laws, decrees and regulations for the improvement of the quality of inclusive education in classrooms, provisions of support, and teacher training across all levels. The Committee further recommends the State party be guided by article 24 of the Convention, including the General Comment No. 4, in implementing Sustainable Development Goal 4, targets 4.5 and 4(a) to ensure equal access to all levels of education and vocational training; as well as build and upgrade education facilities that are disability sensitive and safe.

57. The Committee is concerned that deaf children are not provided with sign language interpreters in school if requested.

58. The Committee recommends monitoring and providing highly qualified sign language interpreters for any deaf child who requests such assistance, and to desist from recommending general communication assistants as an exclusive alternative.

59. The committee is concerned at the lack of availability of accessible learning materials and the lack of assistive technology in a timely manner which hinders the quality of education in the mainstream setting.

60. The committee recommends that the State Party undertake, through legislative and other measures including newly drafted decree on education, to guarantee availability of accessible learning materials and provision of assistive technology in a timely manner in order to ensure inclusive and quality education in the mainstream setting.

Health (art. 25)

61. The Committee is concerned about the lack of physical accessibility and information regarding sexual and reproductive health services, including discrimination and stereotyping, particularly to women and girls with disabilities.

62. The Committee recommends the State party to, in close collaboration with organisations representing persons with disabilities and particularly those representing women with disabilities, ensure accessibility to facilities and equipment, information and communications regarding sexual and reproductive health services, and provide training to health personnel about the rights of persons with disabilities; it also recommends strengthening mechanisms to combat discrimination and stereotyping in line with General Comment No. 3.

63. The Committee is concerned about the lack of data on medical treatment administered without the free and informed consent of the person, including sterilisation.

64. The Committee recommends the abolition of all laws that permit medical treatment, including sterilisation consented by a third party (guardian, parent)

without the free and informed consent of the person, and to provide related high-quality training of health professionals.

65. The Committee is concerned at the slow progress of adopting and funding Minimum Standards of Healthcare (LEA) including early identification and intervention for children with disabilities.

66. The Committee recommends to expedite the adoption, funding and implementation of Minimum Standards of Healthcare (LEA) so all children have access to early identification and intervention according to their requirements. The Committee recommends that the State party take into account article 25 of the Convention while implementing Sustainable Development Goal 3, targets 3.7 and 3.8

Habilitation and rehabilitation (art. 26)

67. The Committee is concerned at the slow progress to implement the National Minimum Standards of Assistance (LEA) to comprehensive services and programmes of habilitation and rehabilitation, and the fact that LEA does not cover independent living and personal assistance schemes for support to live in the local communities but continues to direct resources to institutionalised living.

68. The Committee recommends to review and revise the Minimum Standards of Assistance, in close consultation with organisations representing persons with disabilities, to refrain from resourcing segregated services and redirect resources to support for independent living. The Committee further recommends to expedite the adoption, funding and implementation of the Minimum Standards of Assistance, so that all adults and children with disabilities have full access to comprehensive services and programs of habilitation and rehabilitation within their community.

Work and employment (art. 27)

69. The Committee is concerned about the high levels of unemployment amongst persons with disabilities and inadequate provisions to promote their inclusion into the open labour market, in particular women with disabilities. The Committee is concerned that persons with disabilities in the State Party may be restricted to the performance of certain professions on the grounds of their disability.

70. The Committee recommends the State party to be guided by article 27 of the Convention in implementing Sustainable Development Goal 8, targets 8.5, to ensure achievement of full and productive employment and decent work for all, including persons with disabilities and equal pay for work at equal value. In addition, the State party must implement special measures to address the low level of employment for women with disabilities. The Committee recommends the State party to remove any legislation limiting the rights of persons with disabilities to perform any profession on the grounds of their disability.

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

71. The Committee is concerned about a) regional variation of social protection mechanisms b) the lack of Minimum Standards of Social Assistance (LIVEAS) ; c) the increased levels of poverty amongst persons with disabilities and their families, in particular children with disabilities; and d) the lack of assessment of the adverse effect of austerity measures.

72. The Committee recommends expediting constitutional reform to homogenize social protection interventions and policies throughout the national territory; expedite the adoption and implementation of Minimum Standards of Social Assistance;

conduct assessments of the impact of austerity measures on children and adults with disabilities, and prevent any further reduction in resources that can increase levels of poverty. In addition the Committee recommends to the State party to be guided by article 28 of the Convention in implementing Sustainable Development Goal 10, target 10.2, including by mainstreaming disability in its poverty reduction policies.

Participation in political and public life (art.29)

73. The Committee is concerned that persons with intellectual disabilities and/or psychosocial disabilities do not receive adequate support in order to exercise their right to vote, and that Article 48 of the Constitution, which restricts the right to vote based on “civil incapacity” is inconsistent with the Convention. The Committee is concerned about the inability of persons with disabilities to vote wherever they choose due to legal restrictions imposed on them. It is also concerned that the regulation on assistance for persons with disabilities in order to cast their vote is not consistent with the Convention.

74. The Committee recommends repealing Article 48 of the Constitution, and provide support and facilitation services to ensure all persons with disabilities can exercise their right to vote, including persons with intellectual disabilities and/or psychosocial disabilities. The Committee recommends the State party to repeal law no. 62/04 that restricts persons with disabilities to vote at polling booths of their choice. It further recommends harmonising its regulatory framework on assistance for persons with disabilities to exercise their right to vote in compliance with the Convention.

Participation in cultural life, recreation, leisure and sport (art. 30)

75. The Committee is concerned that the State party has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

76. The Committee recommends the State Party to streamline all efforts for the prompt ratification of the Marrakesh Treaty.

C. Specific obligations (arts. 31-33)

Statistics and data collection (art. 31)

77. The Committee is concerned at the availability and quality of data collection in surveys and censuses on the general population that is disaggregated by disability, sex and age.

78. The Committee recommends the State party to be guided by article 31 of the Convention in implementing Sustainable Development Goal 17, target 17.18, to increase significantly the availability of high-quality, timely and reliable data disaggregated by, among others, income, sex, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts, including in all surveys and censuses.

International cooperation (art. 32)

79. The Committee is concerned about the lack of mainstreaming of disability rights as enshrined in the Convention in the national implementation and monitoring of the 2030 Agenda.

80. The Committee recommends disability rights, as enshrined in the Convention, are mainstreamed in the national implementation and monitoring of the 2030 Agenda

and Sustainable Development Goals, and these processes are undertaken in close cooperation and involvement with organisations of persons with disabilities.

National implementation and monitoring (art.33)

81. The Committee is concerned at the lack of an independent and inclusive monitoring mechanism in line with article 33.2

82. **The Committee recommends the immediate establishment, implementation of an independent monitoring mechanism that adheres to the Paris Principles and provide adequate funding for functioning, and the full involvement of organisations of persons with disabilities in its work.**

IV. Follow-up

Cooperation and technical assistance

83. Under article 37 of the Convention, the Committee can provide technical guidance to the State party on any queries addressed to the experts via the secretariat. The State party can also seek technical assistance from United Nations specialized agencies with offices in the country or the region.

Follow-up and dissemination

84. The Committee requests the State party to submit **within 12 months** and in accordance with article 35 (2) of the Convention information in writing on the measures taken to implement the Committee's recommendations set out in paragraphs 10 and 82 above, regarding the adoption of a definition of reasonable accommodation and implementing an independent monitoring mechanism, respectively.

85. The Committee requests the State party to implement the recommendations contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, local authorities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the media, using modern social communication strategies.

86. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

87. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.

Next periodic report

88. The Committee requests the State party to submit its **combined second, third and fourth reports by 11 May 2023** and to include in them information on the implementation of the recommendations made in the present concluding observations. The Committee also requests the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date for the report of a State party. The replies of a State party to such a list of issues constitute its report.
