



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities Thirtieth session

Summary record of the 709th meeting*

Held at the Palais des Nations, Geneva, on Monday, 18 March 2024, at 10 a.m.

Chair: Ms. Fefoame

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* No summary record was issued for the 708th meeting.

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

Activities under the Optional Protocol to the Convention

Follow-up to the inquiry on Spain (CRPD/C/ESP/IR/1; CRPD/C/ESP/OIR/1)

1. *At the invitation of the Chair, the delegation, the representatives of organizations of persons with disabilities and the independent monitoring mechanism of Spain joined the meeting.*

2. **The Chair** said that, in 2018, the Committee had adopted a report and made recommendations in the context of its inquiry concerning Spain under article 6 of the Optional Protocol to the Convention (CRPD/C/ESP/IR/1). The Committee would now hear from representatives of organizations of persons with disabilities and subsequently from representatives of the independent monitoring mechanism regarding the implementation of those recommendations.

Dialogue with organizations of persons with disabilities and civil society organizations

3. **A representative of Asociación SOLCOM** said that she would have liked to begin her statement by saying that everything had changed for the better in Spain since the inquiry, but the situation was actually worse than at the time of the Committee's visit to Spain in 2017. Hopeful families had reached an impasse as they waited for solutions. However, none had been forthcoming. Children as young as 3 or 4 years old continued to be referred to special education centres, and the law had made that possible.

4. Students whose parents decided to oppose their children's exclusion from mainstream schools encountered great difficulties. There were no inspections to check that children were effectively included in school. Exclusion affected children at the early stages of education, when they were easily influenced and imitated what they observed. Children saw at an early age that those who were different were segregated, thereby producing new generations who would grow up to perpetuate such discrimination.

5. School environments were hostile and aggressive, and the students who managed to continue in mainstream schools suffered all kinds of bullying, neglect and rejection. Rules were needed to protect students, but often the rules in place actually ran contrary to their interests. When dedicated teachers became involved with students, the children made progress, but education must not depend on the goodwill of individual teachers, nor on luck in encountering such teachers.

6. In all laws and regulations on education, provision was made, in supposedly exceptional cases, for support to be given outside the classroom, but such exceptions had become common practice. Whether they were called remedial classes or stable classrooms or other names, those that separated children from the rest of the student body were ghetto-like. Nevertheless, students who were taught in separate classrooms or followed separate curricula were included in the official statistics as students in inclusive education. Students who spent 90 per cent of their time outside the ordinary classroom, however, could not be described as benefiting from inclusive education.

7. Reasonable accommodation was provided for on the basis of a psychological and educational report, which was unlawful. In many cases, a professional was obliged to provide personal clinical data for the student in question to be granted the necessary support. That clinical data should be especially protected by law, as it pertained to a minor and in many cases to a diagnosis. However, such data formed the basis for the administration to label the students. Resources were allocated to the education centres rather than given to the individual student. Psychological and educational reports, which determined decisions about schooling, must be abolished.

8. Another important issue was adaptation of the curriculum, which was often the main form of reasonable accommodation provided. Students often did not graduate from secondary school because the curriculum had not been adapted in a way that facilitated learning or allowed them to acquire the necessary competence to pass the final exams. Adapted curricula continued to perpetuate exclusion. Students would continue to be completely marginalized

without the appropriate adaptations that would allow them to graduate from secondary school and continue with training to enable them to find a place in society.

9. The issue of accessibility was also pending. Thirteen years had passed since a royal decree had set minimum accessibility requirements in schools. Although some progress had been made on physical or architectural accessibility, little or no progress on cognitive, sensory or digital accessibility had been achieved. Furthermore, educational and psychological evaluations that involved the use of diagnostic tests, such as psychometric tests, were carried out without making the tests accessible for the students being evaluated. All those circumstances were considerably worse in rural areas, where students were forced to travel up to 100 km from their homes in order to be attended to.

10. During the coronavirus disease (COVID-19) pandemic, although tremendous efforts had been made to provide mainstream students with an education, students with diverse functional abilities had been left by the wayside.

11. In conclusion, the State had failed to comply with the recommendations of the Committee. The lack of protection of students with diverse abilities was total. Exclusion was manifest and deliberate, and the commitment to change was only on paper. There were no policy measures in place and no budget set aside to bring about the necessary change. Discrimination against students because of their functional diversity must not be tolerated. A student segregated in school would grow up to be an adult at risk of social exclusion.

12. **A representative of Asociación SOLCOM** said that there had not only been a failure to fulfil the Committee's recommendations but also significant setbacks as well. For example, there had been an alarming increase in the number of students enrolled in special education. The number of segregated units in mainstream schools had almost doubled in the 10 years since the ratification of the Convention. According to official sources, there had been an increase of 188 per cent in the number of new special schools, where children were segregated by the severity of disability as a matter of course. The number of students enrolled in special education centres in the past decade had increased by more than 20 per cent.

13. There had been important regulatory changes since the publication of the Committee's report in the field of education. A new organic law on education, No. 3/2020, had been enacted to replace the previous one. The preamble to the law established a series of principles in an attempt to transform the Spanish educational system. However, article 74 (1) of the law stated that the schooling of students in special education units or centres would be provided only when their needs could not be met in mainstream schools. In other words, the special education exception had not been eliminated, nor had decisions that resulted in the segregation of students without their having a say in the matter, often against their wishes and that of their parents.

14. The law had also stated that a 10-year plan would be developed so that mainstream schools would have the necessary resources to be able to provide for students with disabilities. However, support would continue to be provided for special education centres. The provision of support had not proved to be a transitional measure: segregation had continued to increase. The same was true for the regulations approved since 2017 in the autonomous communities of Spain. While some progress on inclusive education had been made, the regulations all continued to leave open the possibility of segregation in special classrooms and special educational centres.

15. She was particularly concerned about the law adopted by the Community of Madrid on freedom of choice of school, No. 1/2022. The law in fact restricted the right to inclusive education by stating that the administration's only commitment was to guarantee a place for students with disabilities in basic education, which was not necessarily inclusive. There would thus continue to be segregation, which would particularly affect children with intellectual, psychosocial or multiple disabilities. She was also concerned that civil society organizations had shifted their focus from the right of children to inclusive education to the right of parents to place their children in special education centres. Political parties promised that they would change the educational model and strengthen inclusive education, but no change had occurred. There had been appeals concerning the constitutionality of the law, which had been dismissed because it was claimed that the law gave parents the right to choose

between inclusive education and special education. Segregation was thus accepted in law and in practice and recognized by the Constitutional Court.

16. Regulations and the education system must be adapted to the Convention as a matter of urgency. She called for the repeal of article 74 of the Organic Act on education. Decisions on schooling and exclusionary forms of schooling must also be eliminated. There was a need to establish bodies that enabled families to participate in decisions relating to their children's schooling. The issue of qualifications of students with diverse functional abilities must be resolved. Effective rules against harassment and discrimination were needed. Lastly, Spain must ensure that the Committee could examine individual complaints, even if domestic remedies had not been exhausted, and the Committee, for its part, must keep its inquiry open.

17. *A film presenting the testimonies of parents and students who had been denied an inclusive education and had faced discrimination, neglect and abuse was shown and the script read out.*

18. **Ms. Gamio Ríos** (Country Rapporteur), noting the lack of compliance with the recommendations put forward by the Committee in its report on the inquiry concerning Spain, said that she was personally astonished by the reaction of the State party to the inquiry, which took offence at being told that it was discriminating against students with disabilities and at the use of terms such as "segregation" and "medical model". However, the Committee had found no better terms to describe what it had been able to observe during its visits and what it had heard thus far at the current meeting.

19. The Organic Act on Education continued to emphasize special education centres and did not suggest that such centres were a temporary measure. She wished to know whether the State party envisaged the establishment of a plan of action on the law. Information on the efforts to raise awareness about the right to inclusive education would be helpful, especially in the light of reports that civil society, political parties and legislators continued to support special education, to the detriment of more inclusive education. She welcomed the amendment to article 49 of the Constitution, which brought it more closely into line with the Convention. She wondered how the constitutional reform would be reflected in the State party's education plan and what benefits it would bring to education.

20. **Ms. Aldana Salguero** (Country Rapporteur) said that she, too, was concerned about a number of issues, for example the future of students who were unable to graduate from secondary school. It would be useful to have statistics on the number of students who went on to study in institutions of higher education.

21. Article 27 of the Constitution specifically provided that it was for parents to decide on the education of their children. However, the statements made thus far and the testimonies that had been presented suggested that the parents did not always have a say in their children's education. She wished to know whether there were movements in civil society or in the parliament that sought to modify that provision, which was not in fact being applied. She also wished to know whether there were plans to offer Spanish Sign Language instruction in education centres, in accordance with article 75 of the Organic Act on Education, as amended. She wondered how many sign language interpreters there were in the education system.

22. **Mr. Morris**, noting the 180 per cent increase in the number of special education centres, said that he wished to know what had accounted for the dramatic change during the 10 years since the ratification of the Convention. Had there been a fundamental shift in political thinking that had led to that regressive approach?

23. **Ms. Fernández de Torrijos** said that she wished to thank the representatives of Asociación SOLCOM for sharing with the Committee the frustrations that children in Spain experienced in finding a truly inclusive education. The accounts were all the more striking, as Spain had always been viewed as a State party to be emulated. She would appreciate hearing about the various communities or autonomous governments in Spain where a difference was being made, in accordance with the provisions of the Convention. Did any of them present a model of inclusive education to be followed by the rest of the country?

24. **Ms. Fitoussi** said that education was essential for the inclusion of persons with disabilities in the community. She would like to know what happened with students who did

not graduate from secondary school and what options were available to them. She wondered whether there was a system of non-formal education to provide support for those children.

25. **A representative of Asociación SOLCOM** said that her organization had seen no sign of the plan, to be developed in accordance with the Organic Act on Education as amended by Organic Act No. 3/2020, so that within 10 years mainstream schools would have the necessary resources to cater for students with disabilities. Neither the Government nor the autonomous communities had adopted specific budget lines to strengthen inclusion. Some funding had been set aside for inclusion initiatives, such as the programme for educational guidance, advancement and enrichment (PROA+) of the Ministry of Education, Vocational Training and Sport. However, although such programmes were well funded and targeted schools with a large number of socially vulnerable students, they did not specifically address the reality or needs of children with functional diversity and did not aspire to the necessary structural transformation.

26. In the decade that had followed ratification of the Convention, the Government had seemingly committed to eliminating parallel and segregated education systems. In the 2009/10 academic year, there had been 476 special schools and 993 special classrooms in mainstream schools in Spain. By 2019/20, the number of special schools had fallen very slightly. However, the number of special classrooms in mainstream schools had almost doubled, to over 1,800. Segregation had therefore increased in the decade following ratification.

27. **A representative of Asociación SOLCOM** said that some students who were unable to obtain school-leaving certificates from mainstream schools managed to obtain them from other institutions, such as adult education centres, that did not discriminate against them. That students with disabilities were not receiving their diplomas was worrying, as it pointed to a failure by school authorities to correctly adapt curricula for students with disabilities.

28. The authorities were reluctant to allocate resources to support the use of sign language. Some schools had even prohibited the use of communication devices by students with disabilities, leaving them unable to communicate. In such cases, when the matter was raised by the student's family, the education authorities often upheld the decision taken by the school.

29. Almost all autonomous communities had legislative provisions on inclusion, but in practice the concept was poorly understood, with the result that schools sometimes adopted inappropriate solutions, such as providing reasonable accommodation outside, but not inside, the classroom.

30. **A representative of Asociación SOLCOM** said that the autonomous communities of Catalonia and Valencia had created directorates for inclusion within their regional education ministries. Curiously, those same autonomous communities were among those with the highest number of special schools.

31. **Ms. Gamio Ríos** said that she would be interested to know about any initiatives that had been put forward by organizations of persons with disabilities, political parties or lawmakers in the area of inclusive education. She wondered what might be the impact on education of the recent amendment of article 49 of the Constitution, which enshrined the equal rights of persons with disabilities.

32. **Mr. Makni** said that he would be grateful for further explanation of why some students with disabilities did not receive their school-leaving certificates. Did the problem relate to the failure of the education system to enrol or recognize persons with disabilities?

33. **Ms. Boresli** said that the Committee had been surprised to learn of the setbacks in Spain, a country which previously had distinguished itself in the area of education. The Committee wished to know the reasons for the reported shortcomings and what steps the State party had taken to address them.

34. **The Chair**, thanking all participants for their valuable contributions, said that additional answers could be submitted to the Committee in writing.

The meeting was suspended at 10.55 a.m. and resumed at 11 a.m.

Dialogue with the independent monitoring mechanism

35. **A representative of the Spanish Committee of Representatives of Persons with Disabilities (CERMI)** said that, 16 years after the entry into force of the Convention, the right of persons with disabilities to an inclusive education remained far from a tangible reality in the State party. Spain had failed to implement several of the recommendations made by the Committee in its inquiry report. Most notably, it had failed to eliminate the educational segregation of students with disabilities. Families were forced to turn to special schools as a result of the lack of effective support for children with disabilities in mainstream education and the lack of appropriate teacher training. The continued educational segregation of children with disabilities formed part of the daily landscape and caused no controversy.

36. Since the Committee had conducted its inquiry, Spanish education authorities had neither adopted a concept of inclusive education based on the Convention nor made the necessary changes in schools in order to meet the demand for inclusive education. The situation differed from one autonomous community to the next, both in terms of the criteria used to allocate resources and the level of progress achieved. In general, however, there was a lack of political will to take ownership of the Convention. While the State party's laws established the principle of inclusive education, they did so with many limitations that allowed the dual system of mainstream and special education to persist. In short, the Spanish education system continued to exhibit a pattern of structural exclusion and segregation of persons with disabilities that was incompatible with the Convention.

37. As the Committee had observed, an inclusive education system based on non-discrimination and equal opportunities required the abolition of a separate education system for students with disabilities and the transfer of resources from special schools to the mainstream education system; it also required that persons with disabilities were able to attend primary and secondary schools in the communities where they lived.

38. Article 49 of the Constitution, which had recently been amended, referred to policies to ensure the full personal autonomy and social inclusion of persons with disabilities, with particular attention paid to the specific needs of women and children with disabilities. It was necessary that the amendment, which was a historic landmark for Spanish civil society, should be reflected in the sphere of education. Inclusive education was not an issue that could be postponed or left pending.

39. The fourth additional provision of Organic Act No. 3/2020 required the Government to draw up an inclusive education plan so that, within 10 years, mainstream schools would have the resources necessary to cater for students with disabilities. CERMI had called upon the Ministry of Education, Vocational Training and Sport to promptly adopt and implement the plan, considering that enough time had elapsed and that it was necessary to enter into a dialogue with all education stakeholders with a view to adopting the plan.

40. CERMI wished to highlight the painful experiences of families whose children had been denied an inclusive education. One such case was that of Rubén Calleja, a young man from León with an intellectual disability who, at the age of 11 years, had been forced to leave the inclusive school in which he was enrolled. His parents, arguing that Rubén had the right to attend a mainstream school, had taken their case to the Spanish and European courts, without success, before turning to the Committee on the Rights of Persons with Disabilities, which in 2020 had ruled in their favour.

41. In its Views on communication No. 41/2017 ([CRPD/C/23/D/41/2017](#)), the Committee had found that Rubén's rights under the Convention had been violated and had recommended that the State party provide the authors with an effective remedy, including the reimbursement of legal costs, together with compensation, and ensure Rubén's admission to an inclusive vocational training programme. However, the Spanish State had refused to compensate Rubén, who was now 23 years old. The case had gone to the Supreme Court, which had recently ruled that the Committee's Views were binding on the State, overturning a previous decision of the National High Court. Consequently, the Spanish State must compensate Rubén Calleja and his family for discriminating against him and excluding him from mainstream education.

42. CERMI worked with the education authorities on the protection of the right to education of persons with disabilities. Inclusive education was a process that should be led by the authorities in cooperation and dialogue with teachers, students, families and civil society. There was a need to seek alternative financing models with an inclusive approach and to invest in transforming schools so that they could cater to a diverse student body, with a focus on universal accessibility and human and technological support

43. One of the goals of inclusive education was to improve learning for all students in accordance with their abilities. Such learning could not be achieved solely through classroom-based activities, but required other types of activity within the school environment. It should be recalled that the Convention required States parties to take measures “to ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system”. A lack of qualified staff to enable students with disabilities to participate in extracurricular activities should be regarded as discriminatory, unless it could be demonstrated that reasonable accommodation would impose a disproportionate or undue burden.

44. CERMI considered that the State party should review current teacher training models as a matter of urgency, as the State party too often applied a model that failed to prepare teachers to meet the educational needs of a diverse student body. Continuous evaluation mechanisms and plans, designed to hold teachers accountable for the quality of education, should include the evaluation of inclusive education. More public resources should be devoted to inclusive research, facilitating the participation of researchers in innovation and improvements in schools.

45. It should be recognized that inclusive education was always possible; that it was cheaper than special education; and that it benefited all children, regardless of whether they had special educational needs. Spain needed a genuine transformation, which should be effected gradually and carefully, but with urgency. The educational community, public authorities, civil society organizations and society as a whole should assume responsibility for ensuring that children with special educational needs could attend school on an equal basis with other children.

46. With the Committee’s permission, he wished to share the testimony of a Spanish woman who was struggling to ensure an inclusive education for her daughter.

47. **A parent advocate from Spain**, speaking in a pre-recorded video message, said that she was a teacher and the divorced mother of a 9-year old girl, Elena. The two of them lived in Fregenal de la Sierra, a village in Extremadura. Although happy, sociable and resilient, Elena had had a serious disability since birth and was highly dependent; her needs included a wheelchair and assistive technologies such as a hoist, a standing frame and an adaptive seat. She also required a full-time assistant to provide her with educational support and a person to help with her movements and changes in posture.

48. As Elena was non-verbal, she used an eye-controlled augmentative and alternative communication device. For learning, she needed a universal design for learning (UDL) application and specialized teachers. Elena had encountered multiple barriers from the outset of her schooling. Over a period of seven years, her rights had been repeatedly violated, especially while attending the local primary school. The authorities seemed to regard Elena as a problem to be solved; they had made her change school more than once, and had pressured her mother to send her to a special school. Although resisting such pressure was time-consuming, costly and physically and mentally exhausting, she had persevered where many families had given up, as she was convinced that Elena had the right to education on an equal footing with other children her age in a mainstream school in the village where she lived.

49. While the provisions of the Convention were all very well on paper, it seemed that the Spanish authorities were under no obligation to comply with them and that there were no penalties or consequences for non-compliance. Until the authorities could be made to pay compensation for rights violations, nothing would change, and Spanish families would remain without protection.

50. **Ms. Gamio Ríos** said that she would be grateful if the representative of CERMI could clarify whether the Organic Act on Education, following its amendment in 2020, retained the provision under article 74 (1) for students with disabilities to be educated in special schools until the age of 21 years. She would also welcome clarification of whether the situation in Spain was one of polarization, with some families fighting for their right to inclusive education and while others favoured special education.

51. She would be interested to know what action had been taken in response to the complaints that had been submitted to CERMI in relation to the education of students with disabilities. She wondered what had been the outcome of such complaints and whether they had influenced the Government's stance.

52. **Ms. Aldana Salguero** said that she would appreciate an explanation of whether parents who opposed segregation and did not want their children to attend special schools still benefited from personal assistance and support paid for by the State, or whether they had to bear the cost of those services themselves. She wondered whether students with disabilities could directly apply to benefit from personal assistance in schools.

53. **Mr. Kabue** said that he wished to know what interactions the independent monitoring mechanism had had with the Government regarding the concerns raised by organizations of persons with disabilities, and whether the Government had responded positively to those interactions. It would be useful to know how effectively CERMI had liaised with organizations of persons with disabilities in advocating for full implementation of the Convention.

54. **Mr. Morris** said that, as there were problems with the implementation of article 24 in a number of States parties, the Committee ought to discuss what it could do help families, civil society organizations and States themselves solve those problems.

55. **A representative of the Spanish Committee of Representatives of Persons with Disabilities** said that supporters of special education for students with disabilities, including the families of such students, had allies in the media and lobbied the authorities effectively. They supported special education chiefly because the struggle for personalized support in mainstream education had exhausted them. Special education seemed better. Although CERMI sought to ensure the implementation of article 24, it would never object to a family's preference for special education.

56. The complaints submitted by CERMI had not had the desired effect. Personal assistants were available only in some parts of the country, and even there they were not widely available.

57. CERMI was an umbrella organization that represented a wide range of organizations of and for persons with disabilities. Its existence was evidence of a broad consensus around disability affairs. An organization that was a member of CERMI did not, however, have to give up its particularities.

58. The amendment to article 49 of the Constitution was a welcome development, but it had taken too long. Progress had been slow, and there had been considerable frustration along the way. Spain still had much to do to raise awareness throughout society regarding persons with disabilities.

59. **Ms. Gamio Ríos** said that she wished to know why some families opted for special education as a matter of course and what outreach efforts CERMI was making to change their views. She also wondered whether the Government's efforts to set aside resources for specific schools with large numbers of students vulnerable to exclusion, including students with disabilities, could lead to the creation of segregated schools.

60. **A representative of the Spanish Committee of Representatives of Persons with Disabilities** said that the acceptance of special education was, as he had intimated earlier, the result of a lack of realistic alternatives. CERMI was doing what it could, including on social media, to raise awareness of the Convention and bring the public around. Progress was being made, including as a result of legal precedents. The Views adopted by the Committee in the case *Calleja Loma and Calleja Lucas v. Spain* were one such precedent.

61. **Ms. Aldana Salguero** said that she wished to know how CERMI had responded to the recent opening of three additional special education centres in the Community of Madrid.

62. **A representative of the Spanish Committee of Representatives of Persons with Disabilities** said that the CERMI office in the Community of Madrid was in talks with the regional authorities but that its criticism of outrageous regional legislative developments, the adoption of a deceptively named education law in particular, had been ignored.

63. **Ms. Gamio Ríos** said that, as the laws in all the State party's autonomous communities appeared to make troubling provision for segregated education, it would be interesting to know whether CERMI could propose amendments to the laws.

64. **A representative of the Spanish Committee of Representatives of Persons with Disabilities** said that CERMI did not intend to single the Community of Madrid out for criticism, as there were shortcomings in many of the country's autonomous communities. CERMI had stated as much in its report to the Committee.

65. Increasing political polarization in Spain had not been conducive to progress on the disability front. Measures on which there had once been consensus no longer commanded universal support. Policy discussions on disability had been affected, not only in Spain, by futile ideological clashes.

66. CERMI would nonetheless continue supporting the implementation of the Convention. Education in particular was fundamental. A well-educated people was the foundation of all democratic societies.

The meeting was suspended at 11.50 a.m. and resumed at 12.05 p.m.

Dialogue with the delegation of the State party

67. **A representative of Spain** said that the recent amendment to article 49 of the Constitution, which had been made to explicitly recognize the equality of persons with disabilities, was evidence of her country's commitment to ensuring that such persons could exercise their rights on an equal basis with others.

68. **A representative of Spain** said that the Committee's inquiry had been based on the premises that segregation in the education system continued, affecting 20 per cent of students with disabilities, and that the measures the authorities had taken to transition to an inclusive education system had been ineffective. She trusted that the information she and her colleagues would provide in due course, including in a report containing information on relevant developments in all the country's autonomous communities, would persuade the Committee otherwise.

69. In 2017, the year of the adoption of the Committee's report on its inquiry, Spain had had 466 special education centres and nearly 24,000 mainstream educational institutions. Some 220,000 students with special educational needs had attended either special education centres or mainstream schools. In 2021/22, there had been 470 special education centres, but there had also been a considerable increase in the number of students with special needs, and the percentage of those students attending special schools had fallen from 20 per cent in 2017 to 16 per cent. Less than 0.5 per cent of all students were in special education schools or classroom, a figure lower than that in many other European countries. In short, Spain was among the European countries that had most actively promoted inclusive education for all students.

70. The Government and the authorities of the country's 17 autonomous communities cooperated on a number of programmes that contributed to the inclusion of students with disabilities in the mainstream education system. The Organic Act on Education, which had been adopted in 2020, provided for admissions policies designed to promote diversity and prevent segregation. School administrators were required under the Act to ensure that students with special educational needs had access to appropriate schooling. School curricula had been revised to foster the inclusion of all groups that were at risk of discrimination. In 2020, as noted in the report that would be submitted to the Committee, the State Monitoring Centre for School Coexistence and Conflict Prevention had been reactivated. A forum for inclusive education for students with disabilities had also been set up. In addition, the

authorities cooperated readily with the European Agency for Special Needs and Inclusive Education to ensure that relevant data were widely available.

71. The latest data showed that regional differences in the percentage of students with disabilities who attended mainstream schools were shrinking. Nationally, 83.7 per cent of students with disabilities attended such schools, slightly more than in 2017. Around 80 per cent of students with disabilities attended mainstream schools in Navarra, Aragón and Extremadura, the three autonomous communities in which such students were least likely to attend mainstream schools.

72. Public spending on education had risen from 4.5 per cent of gross domestic product in 2015 to nearly 5 per cent in 2020. Funds had been set aside for a COVID-19 recovery plan that provided for the development of inclusive education programmes. Support and orientation units had been established to ensure that educationally vulnerable students and the members of their families had access to relevant specialist support countrywide.

73. Starting in the 2024/25 school year, the families of students with a degree of disability of 25 per cent or more, a drop from the current 33 per cent, would be eligible for disability benefits and other subsidies. A range of other benefits had also been created in recent years, including a subsidy of €400 to help the families of students with disabilities defray the additional education-related expenses they incurred.

74. The recommendations made by the Committee in 2017 had informed policy development nationally and in the autonomous communities. The Education and Training Monitor 2019, a European Commission report that contained an evaluation of education and training systems across Europe, had also spurred government action, as had the 2018 Teaching and Learning International Survey conducted by the Organisation for Economic Co-operation and Development.

75. There was resistance to the ongoing transformation of the education system, including from within the system. Some groups of persons with disabilities also resisted the transformation. It was clear, too, that change was taking place in some parts of the country more quickly than in others. The Ministry of Education thus made efforts to involve all stakeholders in dialogue. The Organic Act on Education, whose objectives were to enhance fairness and build the education system's capacity for inclusion, provided the legal framework for the transformation of the system.

76. In the autonomous communities, measures were taken to prevent segregation in the education system. In Catalonia, for example, 10 per cent of school places were set aside for vulnerable children, whose needs were identified in nurseries and primary schools. In the Basque Country, the regional authorities had established an index of vulnerability that was used to set aside school places in each area.

77. The Organic Act on Education provided for a number of innovations that would benefit children with disabilities. For instance, it provided for the removal of barriers from schools and established that, every academic year, the efficacy of the measures taken to support children with special educational needs in each school must be evaluated. The Act also established that no child might be prevented from obtaining the qualification to which he or she aspired because of discrimination. Under the Act, children with special educational needs must be assessed in accordance with the benchmarks set out in the adapted curricula to determine whether they could progress to the next academic year or obtain a particular qualification. At each level of the education system, children were required to receive personalized support for each area of school life.

78. At the secondary level, curricular diversification programmes and basic vocational training courses were implemented to provide more personalized support to children who had difficulty following the standard curriculum. In all cases, children with special educational needs received individualized support from the moment that their needs were identified. The educational programmes drawn up for each school were required to respect the principles of non-discrimination and inclusion as fundamental values.

79. In accordance with the Organic Act on Education, mainstream schools would be equipped with the resources that they needed to provide the best possible support to students with disabilities within a period of 10 years. Education authorities were required to ensure

that the most appropriate solutions were provided for the specific needs of each pupil and that special education centres received the assistance that they needed to act as reference and support centres for mainstream schools. The new school curricula were flexible and dynamic, addressed the differing needs of students in all their diversity, provided for skills-based assessment and were in compliance with international standards.

80. **A representative of Spain** said that the Government had paid a great deal of attention to the recommendations issued by the Committee in 2019 (CRPD/C/ESP/CO/2-3) and had taken account of those recommendations in the reform of the Constitution. The Government's responses to the recommendations were also reflected in the Organic Act on Education, the Universities Act and the Vocational Training Act.

81. The establishment of inclusive education involved such profound and disruptive changes that it could take place only in stages. However, the process of transitioning towards inclusive education was currently under way. Important safeguards had been incorporated into each of the three laws on education to ensure that a comprehensive and holistic approach was taken to the education of persons with disabilities. Under the Organic Act on Education, an inclusive education plan would be developed. In that connection, senior figures in the field of inclusive education were currently conducting a study that would be used as the basis for the plan.

82. Efforts were being made to address the needs of specific groups of children, such as children with autism. In that connection, a specific plan had been developed to address the needs of autistic children and ensure that they were not subjected to bullying in schools.

83. The Government had set up an observatory to promote harmonious relations within schools as well as an accessible hotline that students with disabilities could use to report instances of bullying. It had also adopted a comprehensive law on violence against children that provided for measures to promote harmonious relations in schools. Aside from the funds invested in scholarships for children with disabilities, a significant level of funding was allocated to providing students with disabilities with personal assistants, sign language interpreters and mobility programmes, among other measures. A total of €200 million of Next Generation EU funds had been invested in enhancing the accessibility of schools and universities in Spain.

84. In the coming weeks, in line with the recommendation issued by the Committee in 2019, the Government would be launching a strategy on deinstitutionalization to ensure that persons with disabilities could choose where and how they wanted to live. The new strategy, aspects of which had already been piloted by civil society organizations, would also relate to inclusive education.

85. Spain was the first country in the world to have established a law on cognitive accessibility. Under that law, institutions were required to ensure that official publications and documents, such as court rulings and educational curricula, could be understood by everyone who might need to consult them.

86. **Ms. Gamio Ríos** said that she wished to know why the State party continued to refer to students with special educational needs when that term was not compliant with the Convention.

87. Given that special educational establishments were not in compliance with the Convention, she wondered why article 74 (1) of the Organic Act on Education provided that students with special educational needs could remain in such establishments until they had reached the age of 21 years. The Committee would be interested to know whether any plans were in place to amend the Organic Act on Education to include a clause providing that students must not be rejected by an educational establishment on grounds of disability.

88. She noted that special education centres would continue to receive the assistance that they needed to act as reference and support centres for mainstream schools but wondered what measures were being taken to discontinue such centres altogether. Given that responsibility for education had been transferred to the autonomous communities, it would be interesting to know how they harmonized the implementation of their policies on inclusive education. The delegation might describe any measures being taken to resolve the contradiction inherent in the policies of some autonomous communities, which referred to

the need to promote inclusive education while providing for the continuation of special education centres.

89. The Committee was concerned to note that the determination of a person's special educational needs was dependent on his or her degree of disability, expressed as a percentage figure. Given that such an approach was based on a medical model of disability, it would be interesting to know when the State party would abandon it in favour of an individualized, human rights-based approach. She would be interested to know why the current regulations stated that the diploma for compulsory secondary education would be awarded to those who, in the opinion of the teaching staff, had acquired the key competences established for students completing basic education and attained the objectives for the corresponding stage.

90. The Committee would welcome the delegation's comments on the fact that courts sometimes addressed complaints concerning the denial of access to inclusive education as if a principle were being violated rather than a fundamental human right. The State party might indicate whether it would clearly define the meaning of the term "the best interests of the child" in the area of inclusive education and ensure that the term was never interpreted to mean that children with disabilities should receive a specialized education in a special centre. It would be interesting to know why the Government was planning to build three new special education centres when it claimed to be opposed to segregation in education.

91. **Ms. Aldana Salguero** said that she wished to know whether the educational curricula drawn up by the autonomous communities included provisions for sign language and whether students with disabilities, including hard-of-hearing students, were given the support that they needed to achieve their educational goals. She wondered whether school counselling services conducted assessments to determine whether reasonable accommodation should be made for transportation and other services for children with disabilities and, if so, whether their role as assessors was properly defined and regulated.

92. The Committee would be interested to know what the State party was doing to ensure that students with disabilities who completed their compulsory education between 18 and 21 years of age were able to participate in economic and social life without being consigned to special centres, sheltered workshops or any other segregated facilities. It would also be grateful to learn whether the State party had conducted a comprehensive review of teacher training curricula to ensure that trainee teachers were familiar with the concept of inclusive education and its compulsory nature.

93. The delegation might describe any steps being taken to ensure that the preferences expressed by the parents of children with disabilities regarding their children's education were taken into account and that local authorities did not ignore those preferences or subject parents to hostile treatment because they wanted their children to be educated in a mainstream school.

94. She would be interested to hear about any steps being taken to combat bullying against children with disabilities. The delegation might indicate what was being done to address the fact that regional budgets were more oriented towards special education rather than inclusive education. It might also describe any measures being taken to counteract segregationist discourse in the national parliament and the parliaments of the autonomous communities.

95. **Mr. Morris** said that he wished to know whether the State party would establish a social contract on inclusive education to ensure that all stakeholders, from teachers and government officials to children with disabilities and their parents, were involved in formulating policies on inclusive education in Spain.

96. **A representative of Spain** said that the term "special educational needs" was used because it covered all students with special needs, including those whose special needs were not related to disability. The Organic Act on Education retained provisions relating to special schools because the process of transitioning to an inclusive education model was complex and could not be accomplished overnight. For the time being, it was necessary to retain some special schools to ensure that certain children with disabilities were not left in an extremely vulnerable situation.

97. The autonomous communities all allocated funding for the provision of sign language interpreters in educational establishments. Additional funding was provided by the national

Government. Legislative measures had been taken to establish the legal status of sign language and the corresponding obligations of educational establishments. A well-funded support programme had been established to assist persons with disabilities aged 21 years or older who wished to complete their secondary education, study abroad or prepare for competitive examinations for State jobs. Under the programme, students could receive various forms of assistance, including personal and mobility assistance.

98. Plans were in place to draw up a social contract for inclusive education. In that connection, the Government would establish an agreement with the autonomous communities through the Education Sector Conference. The proportion of children with disabilities studying in mainstream schools was expected to have increased significantly within 10 years.

99. **A representative of Spain** said that, between 2017 and 2022, the number of students with special educational needs had increased by 25,000 but only four additional special education centres had been created. A number of projects and programmes were currently being implemented to promote inclusive education. For instance, the European Agency for Special Needs and Inclusive Education was implementing a project to support States in their efforts to establish inclusive educational environments. Another relevant programme was the Territorial Cooperation Programme on Inclusive Education, the purpose of which was to encourage special education centres to serve as reference centres for all mainstream schools.

100. Measures to promote inclusive education were harmonized across the autonomous communities through working groups composed of representatives of the Government and all the autonomous communities. The working groups made it possible for the autonomous communities to share models and best practices. The list of key competences that must be acquired by students completing basic education had been adapted for students with disabilities. The basic curriculum for teacher training colleges was currently being reviewed in the light of inclusive education requirements. The review was expected to be complete within the next few months.

101. **A representative of Spain** said that the data indicated that Spain was heading in the right direction in the area of inclusive education. Although four new special education centres had been established since 2017, 227 mainstream schools had been created over the same period. In recent years, the proportion of students with special educational needs attending mainstream schools had risen. It was not the case that the special education model was being perpetuated. Rather, special education centres were supporting the transition towards inclusive education by acting as reference centres for mainstream schools.

The meeting rose at 1.05 p.m.