



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Consideration of reports submitted by States parties under article 35 of the Convention

Initial reports of States parties due in 2011

Uruguay*

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I. Introduction

1. The initial report of Uruguay to the Committee on the Rights of Persons with Disabilities on the measures adopted by Uruguay to give effect to its obligations under the Convention on the Rights of Persons with Disabilities is submitted in accordance with article 35, paragraph 1, of the Convention.
2. The form and content of the report follows the guidelines on treaty-specific documents to be submitted by States parties under article 35, paragraph 1, of the Convention (CRPD/C/2/3).
3. The drafting of the initial report was coordinated by the Directorate of Human Rights and Humanitarian Law of the Ministry of Foreign Affairs of Uruguay.
4. Wide-ranging consultations were held with the various State bodies involved in this area, principally with the National Disability Programme (PRONADIS) of the Ministry of Social Development, the Social Insurance Bank (BPS), the Human Rights Directorate of the Ministry of Education and Culture, the Ministry of the Interior, the Ministry of Health, the Ministry of Labour and Social Security, the Ministry of Transport and Public Works, the judiciary, the legislature (Human Rights Committee of the Chamber of Deputies), the Uruguayan Institute for Children and Adolescents, and the Secretariat of the Disability Management Programme of Montevideo City Council.
5. In addition, open consultations were held with non-governmental organizations and other members of civil society active in the field of disabilities within the framework of the Honorary National Commission on Disability (CNHD).
6. The drafting of this report marks the beginning of a process of analysis of past public policy and legislation on persons with disabilities and is also an opportunity to promote strategic change in the implementation of a national policy that guarantees the full enjoyment of the rights of persons with disabilities, without distinction as to age, ethnicity, sex or social status.
7. This report by the Government of Uruguay gives a frank account of the progress made, challenges faced and difficulties experienced in this field, recognizing the areas in which, for various reasons, the expected results have not been achieved.

II. General information

A. Developments in disability-related legislation in Uruguay

8. The Convention on the Rights of Persons with Disabilities was adopted by the National Parliament through Act No. 18418 of 4 December 2008. In August 2011, accession to the Optional Protocol to the Convention was approved through Act No. 18776.
9. Ratification of the Convention, in conjunction with other measures, has raised the profile in Uruguay of an issue that was neglected in the past.
10. Act No. 18651 of 19 February 2010² represents another step towards the establishment of a comprehensive protection system for persons with disabilities with a view to ensuring their medical care, their education, their physical, psychological, social, financial and vocational rehabilitation, and their social security coverage, as

² Available at www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=18651&Anchor=.

well as providing them with the benefits, allowances and incentives needed to offset the disadvantages resulting from their disabilities.

11. Under the Act, a person with disabilities is “any person suffering from or having a permanent or long-term physical (motor, sensory, organ or visceral) or mental (intellectual and/or psychological) functional impairment which, given his or her age and social environment, may considerably disadvantage his or her integration in the family, society, the education system or the workplace”.

12. It should be noted that the regulations implementing Act No. 18651 have not yet been adopted; the regulatory decree is still under consideration by the Executive.

13. Nevertheless, many of the provisions of Act No. 18651 (despite the lack of enabling legislation) have already been implemented under various public policies and programmes. Among them may be cited a survey to help identify persons with severe disabilities who need personal assistants, and the latter’s qualifications, as well as a programme of training courses for carers, which are being organized by the Ministry of Social Development and the Social Insurance Bank in conjunction with other bodies and with the support of the Astur Foundation and the United Nations.

14. Among other public policies, the State of Uruguay (through the Social Insurance Bank) provides financial benefits to persons with disabilities and to institutions, for which there is an annual budget of more than US\$ 500 million, benefiting over 150,000 persons and more than 120 institutions.

B. Statistics on disability in Uruguay

15. Uruguay is fully aware of the importance of having statistical data on the effectiveness of the measures taken to avoid discrimination against persons with disabilities, as well as on the progress made towards ensuring equality in the exercise of each of the rights recognized in the Convention on the Rights of Persons with Disabilities.

16. For this reason, it accords particular importance to the presentation of data, figures and indicators on the subject.

17. The data in this report on the prevalence of disability and on variables such as sex, age, level of education, and employment and unemployment rates are taken from three principal statistical sources: the household survey carried out by the National Institute of Statistics and the Honorary National Commission on Disability (2004); the health module of the Continuous Household Survey (2006); and the National Census (2011).

18. It is important to specify that these three statistical sources are not comparable, inasmuch as the methodology applied varies in terms of the types of question asked and samples selected.

19. The first household survey covers urban populations of more than 5,000 inhabitants, whereas the 2006 continuous household survey includes small and rural populations. The National Census applies to the whole population of the country.

20. According to the household surveys of the National Institute of Statistics and the Honorary National Commission on Disability, the disability prevalence rate in Uruguay was 7.6 per cent in 2004, while by 2006 the figure had risen to 9.2 per cent.

21. The data provided in the surveys provide a profile of the situation of persons with disabilities in Uruguay. For example, it is significant that almost half (48 per cent) of persons with disabilities belong to low-income households.

22. With respect to education, between the ages of 4 and 15, the percentage of children with disabilities who attend school is 88 per cent, or seven percentage points less than those without disabilities (Honorary National Commission on Disability/National Institute of Statistics, 2004).

23. Concerning the level of education, only 32 per cent complete their primary school education, which seems to be a first barrier for people with disabilities. As they move through the education system, the disparity between those with and without disabilities grows, reaching 19 percentage points for completion of secondary or higher education.

24. The high percentage of persons with disabilities aged 25 and over who have little or no education (37.7 per cent), contrasts sharply with the percentage of persons without disabilities in the same situation (12.6 per cent).

25. Other important statistics include the average household income from employment for persons with disabilities, which is 37 per cent less than that of persons without disabilities.

26. When comparing the employment income for persons of the same sex with and without disabilities, the biggest difference is among the male population. Men with disabilities receive 3,337 Uruguayan pesos (about US\$ 150) less than other men.

27. Initial data from the last national census (2011) indicate that, out of a population of 3,251,654 in Uruguay, a total of 517,771 people have some form of disability.

28. Of that total, 365,462 people have a slight disability, 128,876 a moderate disability and 23,433 a severe disability. According to the data, 15.9 per cent of the population of Uruguay are persons with disabilities.

29. The category of “disability” was included in the national census for the first time in 2011, so that persons with disabilities are now included in official demographic information.

C. Disability and poverty

30. The incidence of disability varies according to the characteristics of the population in question.

31. In the capital, Montevideo, there is a higher incidence of disability (11.5 per cent) among poor people than among those who are not poor.

32. Within the poor population, those living in extreme poverty have a different disability profile from that of the poor population as a whole, with a higher incidence of mental disabilities (intellectual and psychological).

33. Persons with disabilities living in extreme poverty are mostly young, with a higher incidence of hearing disabilities among women and of intellectual and psychological disabilities among men.

34. Psychological disabilities are more frequently associated with other disabilities, while the disability that occurs most frequently on its own is intellectual disability.

35. As to how much disability affects people’s lives, according to studies carried out by the National Disability Programme, for a high proportion of this population group it does not have a strong impact on activities related to personal hygiene, housework and leisure within or outside the home. However, 50 per cent of the people with disabilities find it has a strong impact on their studies and 31 per cent state that it has an impact on their work.

36. Looking at the different types of disability, those with motor disabilities are affected mostly in respect of recreational activities and household tasks. Persons with psychological disabilities experience greater difficulties as regards recreational activities outside the home.

37. With respect to assistive devices, less than 50 per cent of those who say they need one have received one. Differentiated by type of disability, less than 70 per cent of persons with mental and hearing disabilities, 60 per cent of persons with intellectual disabilities and 60 per cent of persons with hearing disabilities have not received one.

38. According to the research carried out for the studies, associations for persons with disabilities identify a number of areas in which the people they represent are disadvantaged: health, education, work and leisure. Thus it would be fair to conclude that persons with disabilities generally need policies to be redesigned in order to guarantee their access to goods and services.

39. Comparing persons with disabilities, whether poor or not, we find the situation is the same for persons with disabilities living in extreme poverty.

40. In addition, there is a significant problem in relation to the types of disability found among poor people, namely that more than 50 per cent of persons with learning disabilities are poor. Given that poor people represent 13.7 per cent of the total population, it is extremely alarming that this 13.7 per cent of the population contains 50 per cent of the population with learning difficulties.

41. As for the standard of living of persons with disabilities and the adequacy of social protection, initial data from the study carried out by the Ministry of Social Development and the Disability Network of the University of the Republic (2009) on households living in extreme poverty show that 59 per cent of children have a mental disability: of these, 49 per cent have intellectual disabilities, 13 per cent have psychological disabilities, and 39 per cent have both kinds (these figures relate to the first 238 households surveyed, in which there were 404 persons with disabilities).

42. If we compare the data on children who have some form of mental disability with their educational level, the question of educational inclusion arises. Both access to and continued attendance in the education system are indicators of the real development potential of poor children with some form of disability.

D. Institutional aspects

43. As the situation for persons with disabilities has received more attention from the Government and from Uruguayan society, so institutional support has been developed and consolidated within various State bodies and departmental authorities.

44. Initially, the disability-related services provided by national public bodies dovetailed with targeted interventions that focused on vulnerable groups. The variables established in the model for this policy take into consideration “persons suffering from malnutrition or from any type of chronic illness or disability, adolescent mothers or persons with addiction problems”. This reflects the strong influence of the biomedical model of disability.

45. Consequently, public services in Uruguay were built historically on the basis of the criteria outlined above, which delegated the care for persons with disabilities to different areas of government: the Ministry of Health (State Health Services Administration) and, more recently, the Ministry of Social Development (National Disability Programme), the National Public Education Administration, the Social Insurance Bank, the National Institute of Employment and Vocational Training and the Uruguayan Institute for Children and Adolescents.

46. Since 2005, the biomedical model of disability has existed alongside the bio-psycho-social model, in accordance with the International Classification of Functioning, Disability and Health (World Health Organization, 2001).
47. It was at that time that the decision was taken to transfer the National Disability Programme from the Ministry of Health to the Ministry of Social Development.
48. Following ratification by Uruguay of the Convention, there has been a gradual consolidation of the social model of disability.
49. In short, this initial report reflects the coexistence of the different models, and draws attention to the process of institutional transition initiated by the Government.
50. The coexistence of these models is perhaps one of the main reasons why there are no unified criteria for certifying disability in Uruguay.
51. While the law and the Convention clearly define who is to be included in this population group, in Uruguay there are different certification systems depending on the body concerned.
52. This has consequences for the design of needs-based policies, as well as for the introduction of an information system that provides feedback on the policies that have been implemented, and thus a means of monitoring them.
53. Access is provided to some services according to the criterion of vulnerability — in this case defined as biological — while access to other services is limited by other criteria; for example, some services can be accessed only by those who receive a non-contributory pension from the Social Insurance Bank. Receipt of a non-contributory pension is dependent on the degree of disability and on the level of family income (except in the case of persons with severe disabilities, where income is not taken into account).
54. Other institutional criteria also limit access to the services of private associations that have agreements with the Government: where the grant requested cannot be sustained, the first condition is that the person must be in receipt of a pension; the second is that the person must meet the criteria for coverage, as defined by the association in question (e.g. age, type of disability).
55. Responsibility for disability policy at State level lies with the Honorary National Commission on Disability and the National Disability Programme. The latter is due to be upgraded to the category of an institute under the Government's plans on disability. It is currently a programme within a ministry, while the Commission is a non-State public corporation.
56. Article 256 of Act No. 18172 established the National Disability Programme, which oversees the Tiburcio Cachón Rehabilitation Centre for the Blind and Visually Impaired and the Artigas National Institute for the Blind. To this end, the relevant property, loans, resources, rights and obligations were transferred from section 12 ("Ministry of Health") to section 15 ("Ministry of Social Development").
57. The Honorary National Commission for the Disabled, established under article 10 of Act No. 16095 (1989), as amended by the single article of Act No. 16160 (1990), fell within the remit of the Ministry of Social Development and was chaired by the Minister of Social Development or a person designated by that minister. Its members included the Minister of Public Health or a person designated by that minister.
58. Subsequently, under article 13 of Act No. 18651, the Commission was reorganized and renamed the Honorary National Commission on Disability, the name reflecting the new conceptual approach. The Commission reports to the Ministry of Social Development.

59. The Commission is chaired by the Minister of Social Development or a person designated by the minister. The other members represent the Ministry of Health, the Ministry of Education and Culture, the Ministry of Labour and Social Security, the Faculty of Medicine, the Central Governing Council of the National Public Education Administration, the Congress of Mayors, the Faculty of Dentistry, the Uruguayan Institute for Children and Adolescents, the Social Insurance Bank, the State Insurance Bank, the Honorary Commission of the Mental Health Foundation, and the Faculty of Social Sciences.

60. The Commission is also joined by representatives of other faculties or areas as required, as well as by a representative of each of the umbrella associations (whose members are associations of persons with disabilities) that either have or are about to gain legal status.

61. The membership of these associations must consist of persons with disabilities, except where such persons are unable to represent their own interests, in which case they may be represented by members of their immediate family or by a guardian.

62. The Commission has the task of drawing up, examining, evaluating and implementing national plans on the promotion, development, bio-psycho-social rehabilitation and social integration of persons with disabilities. To this end, its job is to ensure coordinated government action in the various services that have been or are due to be established, in order to achieve the objectives set out in the Act.

63. Article 17 of Act No. 18651 states that, with the exception of the department of Montevideo, all departments in Uruguay shall have an honorary departmental commission on disability comprising a representative of the Ministry of Social Development, by whom it will be chaired, and representatives of the Ministry of Health, the Ministry of Education and Culture, the Ministry of Labour and Social Security, the Central Governing Council of the National Public Education Administration, the relevant city council, the Uruguayan Institute for Children and Adolescents, the Social Insurance Bank, the State Insurance Bank, the Departmental Commission of the Mental Health Foundation, and the faculties listed in article 13 of the Act (to the extent that they are located in areas covered by the departmental commissions), as well as two delegates from organizations for persons with disabilities in the department. The membership of these associations must consist of persons with disabilities, except where such persons are unable to represent their own interests, in which case they may be represented by members of their immediate family or by a guardian. Where there are more than two associations with these characteristics, preference will be given to those umbrella associations whose membership consists of associations of individuals.

64. Regional commissions and local subcommissions may also be created, their membership to be determined by, respectively, the Honorary National Commission on Disability and the honorary departmental commissions on disability.

65. Article 18 of Act No. 18651 establishes regional and departmental commissions and local subcommissions with responsibility for the following tasks:

(1) Studying, planning and advising the Executive and departmental authorities on all measures needed to give effect to the present Act, and implementing the programmes devised by the Honorary National Commission on Disability;

(2) Supporting and coordinating the activities of private non-profit entities which support persons with disabilities;

(3) Using the media to encourage the effective use of existing resources and services and to develop a sense of social solidarity in this area;

(4) Assessing the implementation of the programmes mentioned in paragraph (1) above and formulating recommendations in this regard;

(5) Carrying out any other activities assigned to them by law.

66. Government action on disability issues is implemented by means of a number of programmes, services and benefits that specifically cover persons with disabilities. Sometimes the action is carried out by the State itself, through activities or direct financial transfers to persons with disabilities; at other times, it is carried out in conjunction with third parties, usually private entities, which receive funding. While the State has an important presence in the provision of services and benefits for persons with disabilities, such provision is fragmented and rather uncoordinated.

67. Accordingly, the Honorary National Commission on Disability offers a counselling service which makes referrals to existing services or specific programmes that provide various kinds of assistance. The most frequent requests for assistance relate to access to employment, social benefits, housing, rehabilitation and psychological care. The counselling service receives about 25 requests per month.

68. With respect to social benefits, article 195 of the Constitution established the Social Insurance Bank, which is tasked with coordinating State services in respect of social benefits and organizing the social security system. The mission of the Bank, as a social security institution, is to provide services that cover social contingencies for the community as a whole and to ensure the collection of resources in an effective, efficient and equitable manner, promoting social security policies and initiatives and applying the guiding principles on social security under the remit assigned to it by the Constitution and the Act. The Bank runs programmes and provides services designed to cover the contingency or risk of invalidity.

69. The Ministry of Labour and Social Security works with the National Institute of Employment and Vocational Training (INEFOP) established by Act No. 18406 of 24 October 2008 as a public, non-State, tripartite entity. Its principal task is to implement policies on vocational training and policies designed to improve employment opportunities for men and women in Uruguay. It is directed by a governing board comprised of seven members, each with an alternate, representing the Executive, the business sector and the trade unions. The Institute is responsible for the Vocational Training Programme for Persons with Disabilities (PROCLADIS), the purpose of which is to promote the social inclusion of persons with disabilities and help them identify as workers. The participants are persons with disabilities (all categories) who are over the age of 18 and who are sufficiently autonomous to participate in the open labour market.

70. The National Human Rights Institution was established within the legislative branch by Act No. 18446 of 18 December 2008² to defend, promote and protect to the fullest extent the human rights enshrined in the Constitution and in international law.

71. The same Act established that the National Human Rights Institution was not to be subject to any hierarchy, that it was to carry out its work in an independent manner and that it would not receive instructions or orders from any authority.

72. The Institution shall also have the power to hear and investigate allegations of human rights violations, either on request or of its own motion, in accordance with the procedure set forth in the Act.

73. At the municipal level, the largest local authority in the country is that of Montevideo, where approximately half the population of the country lives. The City Council established the Secretariat of the Disability Management Programme in 1990,

² Available at www.parlamento.gub.uy/leyes/ AccesoTextoLey.asp?Ley=18446&Anchor=.

thus becoming the first municipal authority to create an institutional space specifically to work on disability issues, giving it official status and encouraging it to develop its areas of work. The Secretariat is located in the Department for Social Development, in keeping with a social approach to disability issues. The objectives of the Secretariat are: to promote the social inclusion of persons with disabilities; to provide support services for persons with disabilities and their families which contribute to a better quality of life; to encourage citizens to become involved in disability issues by providing space for them to help prepare collective projects; and to contribute to the development of an accessible city. The Secretariat manages and organizes various programmes and services, including a community programme on training, entry to the workforce and accessibility.

74. The Departmental Council of Maldonado has a special policies unit that reports to the Directorate-General for Integration and Social Development. It focuses on working with persons with disabilities and older persons in order to promote inclusion, autonomy, equity, accessibility and acceptance of diversity.

75. The Departmental Council of Rivera has an Office for Assistance to Persons with Disabilities that reports to the Directorate-General for Development Cooperation and Action. Its mission is to provide constant monitoring of the application of minimum standards and guidelines on the accessibility of buildings and services open to the public or for public use.

76. Other departmental councils also have programmes and projects in this area.

E. Civil society organizations that provide disability services under agreements signed with the State

77. The goods and services provided to persons with disabilities by civil society organizations are an important part of the strategy for the inclusion of persons with disabilities, given their social impact and the fact that the majority of the State budget allocated to implementing public policies on disability is used to fund such goods and services.

78. Most private projects are carried out under agreements signed with the State, pursuant to which the State allocates financial, material and human resources to them. The vast majority of these initiatives are set up as non-profit civil associations, though other arrangements are possible, such as limited liability companies and cooperatives. Others are set up as training bodies, which allows them to enter into agreements with, primarily, the National Institute of Employment and Vocational Training, including its Vocational Training Programme for Persons with Disabilities.

79. These associations may be divided into the following categories:

- Associations of persons with disabilities, which are made up of persons with disabilities and/or their family members;
- Umbrella associations, which are made up of two or more associations of persons with disabilities or their family members (assemblies, federations);
- Non-profit civil associations with various aims: educational institutions, rehabilitation institutions and clinics, foundations and support associations for specific disabilities. These are generally set up by doctors (with various specializations), physiotherapists, audiologists and speech-language pathologists, psychomotor specialists, psychologists, social workers, specialized teachers and educational psychologists;

- Groups that are established through local or neighbourhood initiatives, which must obtain non-profit status in order to have greater access to resources under the various agreements.
80. These associations rely on various sources of income to fund their activities, such as registration fees, State funding under various agreements (with the Social Insurance Bank, the Uruguayan Institute for Children and Adolescents, the Vocational Training Programme for Persons with Disabilities, the National Disability Programme, etc.) or donations.
81. Partial support is also provided under specific agreements:
- The Central Governing Council of the National Public Education Administration (CODICEN) offers support by providing teachers to give training courses on various subjects;
 - Other forms of partial support are offered by the National Disability Programme and departmental councils.
82. Associations may receive income from a combination of sources.
83. They can be categorized as follows, according to the type of service they provide:
- (a) Those that offer various activities in which users can participate on a part-time basis (in some cases for a few days per week, at a specific time) or on a full-time basis (attending all activities);
 - (b) Those that offer services in what are known as “homes”, which involve admission to an institution; residents may also participate in activities outside the home, depending on the type of institution and the particular situation of each individual.
84. The services may be accessed voluntarily or upon referral. The associations generally rely on individual assessments and interviews conducted by their own specialists to decide whether individuals should participate in the activities.
85. As for the length of stay, a distinction can be made between associations that offer short-term services such as rehabilitation or training; those that offer longer-term training or socialization activities reserved for the age groups targeted by the association; and more permanent arrangements, when the individual maintains a link with the association for a long period of time, as in the case of homes or associations of persons with disabilities and their family members.
86. According to the National Disability Programme database, there are 227 private institutions or organizations working in the field of disability, 105 of which are located in Montevideo.
87. In the publicly available resource guides of the Ministry of Social Development, however, a total of 110 associations are listed, of which 30 are associations of persons with disabilities and/or their family members, including three umbrella associations (federations or assemblies). The associations are listed in accordance with how they identify themselves, which in most cases is by disability type.
88. The resource guides list the services offered for persons with disabilities, and are organized according to type of disability. The service providers may be categorized as follows: (a) those for persons with a specific type of disability, such as persons with intellectual disabilities, persons with autism, persons with mental disabilities, persons with a visual impairment, deaf persons, deaf and blind persons, and persons with a motor impairment; (b) those dealing with more than one disability (which may or may not be specified); (c) those dealing with all disabilities (serving persons with various

types of disabilities); (d) those dealing with multiple disabilities (when a person has more than one disability); and (e) those that do not specify.

89. There are registered associations or support groups for the following specific syndromes and chronic illnesses: heart disease, laryngectomy, haemophilia, dependence on supplemental oxygen, Alzheimer's disease, fragile X syndrome, cystic fibrosis, scleroderma, lupus and epilepsy. There are also support groups for relatives of persons with mental illnesses.

90. As for the age groups targeted, according to information provided by the associations and institutions, their services are intended for persons at various stages of life, and in some cases refer to set age ranges. For example, four institutions for adults each set a different age limit, of 30, 45, 60 or 70 years of age. Among the associations that do not set age limits are counselling services and support groups for persons with specific disabilities.

91. With regard to the type of service provided, it is useful to look at the types of activities carried out, as there are no substantial differences in the objectives pursued by the different associations.

92. The services on offer can be classed in the following areas:

- *Education*: associations that teach academic skills or that offer training in the skills of a trade, activities in support of inclusive education, retraining activities and recreational activities;
- *Assistance*: associations that offer rehabilitation and assistance activities;
- *Counselling*: associations that refer persons with disabilities and their family members to the various services available or to other associations and institutions.

93. The majority of organizations report that they do not limit their work to one single area, and the same organization may offer services in a variety of areas.

94. The areas they deal with include: activities to promote personal autonomy; training in various workshops and preparation for work (training in cross-cutting skills or in specific skills in the fields of catering, hairdressing, handicrafts, ironworking, etc.); academic education (mathematics, literacy, English); artistic expression workshops; recreational and sports activities; clinical areas, such as diagnosis and rehabilitation (audiology and speech-language pathology, psychomotor function, psychology, psychiatry, pedagogy, social rehabilitation); equestrian rehabilitation; and early learning.

III. Specific information relating to the implementation of the Convention in law and in fact

General provisions of the Convention (arts. 1-4)

95. Uruguay fully supports the purpose of the Convention, which is the most important universal instrument to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities.

96. Uruguay signed the Convention on 3 April 2007 — as soon as it had been negotiated and concluded — and ratified it on 11 February 2009.

97. Uruguayan law (Act No. 18651) is in line with the standards set out in the Convention. This Act seeks to establish and consolidate a comprehensive protection system for persons with disabilities, with a view to ensuring their medical care, their

education, their physical, psychological, social, financial and vocational rehabilitation, and their social security coverage, and granting them the benefits, allowances and incentives needed to offset the disadvantages resulting from their disabilities, while at the same time enabling them to play a role in the community that is comparable to the role played by persons without disabilities.

98. The definition of disability established in Act No. 18651 is in line with the definition in the Convention. Article 2 of the Act defines a person with disabilities as “any person suffering from or having a permanent or long-term physical (motor, sensory, organ or visceral) or mental (intellectual and/or psychological) functional impairment which, given his or her age and social environment, may considerably disadvantage his or her integration in the family, society, the education system or the workplace”.

99. As can be seen, the definition includes both physical (motor, sensory, organ or visceral) impairments and mental (intellectual and/or psychological) impairments.

100. The public policies that the State has developed to address the needs of persons with disabilities focus on long-term strategies, as the Committee itself has advocated.

101. Based on this long-term perspective, the Government advocates the adoption of a unified approach to the conceptualization, treatment and support of persons with disabilities.

Implementation of the general principles and obligations set out in articles 3 and 4 of the Convention, in particular the principle of non-discrimination

102. The principles set forth in the Convention on the Rights of Persons with Disabilities were incorporated into the Uruguayan legal system with the adoption of the aforementioned Act No. 18651.

103. Likewise, Act No. 17330 incorporates into the national legal system the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities.

104. In 2012, the National Disability Programme adopted an action plan (with a rights-based approach in line with the Convention) that is centred on the following themes: universal accessibility; community and territory; gender, generations and ethnicity; culture, sports, tourism and recreation; education and employment; training, research and dissemination; and health and psychosocial rehabilitation. These are cross-cutting themes addressed in all the Programme’s activities.

Degree of involvement of persons with disabilities, including women, boys and girls with disabilities, in the development, implementation and evaluation of legislation and policies to introduce the Convention

105. The Government acknowledges that no relevant, specific measures have been taken to facilitate the participation of persons with disabilities, especially women and children, in the drafting of relevant laws and policies.

106. Nevertheless, the membership of the Honorary National Commission on Disability includes representatives from each of the umbrella associations of persons with disabilities that currently have or have applied for legal personality and that have asked to participate in the Commission (this currently includes the Federation of Deaf Institutions in Uruguay, the Autism Federation of Uruguay, the National Assembly for Disability, and the Uruguayan Federation of Parents of Persons with Intellectual Disabilities). The membership of these associations must consist of persons with disabilities, except where such persons are unable to represent their own interests, in which case they may be represented by members of their immediate family or by a

guardian. The Uruguayan Institute for Children and Adolescents, which is the body responsible for safeguarding the rights of children and adolescents in Uruguay, also participates in the Commission.

107. In 2012, the National Disability Programme established the Gender and Generations Unit, which runs programmes to promote the rights of girls and women with disabilities and to develop strategies to prevent violence specifically targeting children and women with disabilities. The Programme works in these areas alongside the National Women's Institute of the Ministry of Social Development, Montevideo City Council and the Ministry of Health. Moreover, the gender perspective is taken into account in all the Programme's communications, activities and projects.

108. The National Disability Programme, acting through the Ministry of Social Development, will address the subject in the Government's new high-priority programmes, namely the "Uruguay Grows with You" programme, the "Proximity" programme and the "Young People Online" programme.

Higher levels of protection of the rights of persons with disabilities than those included in the Convention

109. Uruguay is not taking any measures that provide a higher level of protection. In any case, it should be pointed out that until a few years ago the established view was that there was no standard higher than the Constitution in Uruguayan law. Now, however, after several expert discussions at the constitutional level, it has been determined that international human rights conventions hold the highest hierarchical standing, pursuant to article 72 of the Constitution, which states as follows: "The enumeration of rights, duties and guarantees made in this Constitution does not exclude others which are inherent in human beings or are derived from a republican form of government." This leaves open the possibility of interpreting the provision to mean that human rights conventions, such as the Convention on the Rights of Persons with Disabilities, have a standing equal to that of the Constitution.

Article 5: Equality and non-discrimination

110. Uruguay recognizes that all persons are equal before the law and are entitled to equal protection and benefit of the law on equal grounds without any discrimination.

111. For this reason, the national legal framework prohibits any discrimination on the basis of disability and guarantees to all persons with disabilities equal and effective legal protection against discrimination on any ground whatsoever.

112. Article 8 of the Constitution establishes that everyone is equal before the law. Furthermore, article 5 of Act No. 18651 establishes that persons with disabilities enjoy all rights without any exception whatsoever and without distinction or discrimination on the basis of race, colour, sex, language, religion, political or other opinions, national or social origin, state of wealth, birth or any other situation applying either to themselves or their family.

113. To that end, the following rights in particular are recognized for persons with disabilities: the right to respect for their human dignity; the right to enjoy a decent life that is as normal and full as possible; the right to take action to achieve greater autonomy; the right to health, education, adaptation, vocational rehabilitation and employment; the right to economic and social security, a decent standard of living and housing; the right to live with their family or in an alternative care setting; the right to be protected against any exploitation, regulation or discriminatory treatment; and the right to receive legal assistance where necessary to protect their person and property.

114. The steps taken by the State to give effect to these rights include the legal recognition of Uruguayan sign language as a natural language and the 4 per cent quota established for persons with disabilities in civil service posts.

115. There are also two institutional mechanisms whereby persons with disabilities may lodge complaints of discrimination on the ground of disability.

116. The first of these is the Honorary Commission against Racism, Xenophobia and All Other Forms of Discrimination, established by Act No. 17817 of 6 September 2004.³ Among its many competencies, the Commission can receive and gather information on racist, xenophobic and discriminatory behaviour, establish a register of such acts, and file a complaint before the courts where appropriate.

117. Since its establishment, the Commission has received 118 complaints, 18 of which (15 per cent) involved discrimination on the ground of disability. Of the complaints of discrimination on the ground of disability in the workplace, the vast majority concerned convocations to sit competitive examinations for entry to the civil service. In the light of this, the Commission sent a communication to the National Office of the Civil Service drawing attention to the issue and asked each of the institutions where the discriminatory acts had taken place to draft a special report.

118. With regard to the complaints of discrimination in educational establishments, the Commission requested reports from the educational authorities of the Central Governing Council of the National Public Education Administration. The rector of the university was contacted concerning one case in the Faculty of Medicine. As a result, training was given on how to deal with these specific cases in educational establishments.

119. Establishments that had reportedly failed to comply with accessibility standards were asked to submit a report and take specific measures, and in some cases means of access were promptly installed.

120. The other complaint mechanism available is the National Human Rights Institution, which was established within the legislative branch by Act No. 18446 to defend, promote and protect to the fullest extent the human rights enshrined in the Constitution and in international law. Specifically, article 4, paragraph (j), of the Act grants the Institution the power to hear and investigate allegations of human rights violations, either on request or of its own motion, in accordance with the procedure set forth in this Act.

121. To date, the Institution has received six complaints related to acts of discrimination. Of these, two concerned discrimination on the ground of disability, and four concerned discrimination on the ground of sexual preference or orientation. One of the complaints of discrimination on the ground of disability involved discrimination in a school against a child with a behavioural disorder, and the other involved access to a housing loan in relation to the type of insurance required.

122. Another important measure to address potential problems of discrimination on the ground of disability is the preparation of the National Plan for Equal Opportunities and Rights of Persons with Disabilities in consultation with local social organizations of and for persons with disabilities, as well as with the existing thematic networks, thematic round tables and honorary departmental commissions.

123. The process of drawing up the plan requires a broad, participatory, nationwide debate on disability policy, and at the same time provides the various bodies involved with information about the Convention. The first national consultation was held on 30 March 2012, and involved 130 organizations of and for persons with disabilities, who

³ Available at: www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=17817&Anchor=.

endorsed the proposed draft. There are plans to hold a further two consultations at the national level and three at the regional level. The present State party report will be presented to social organizations of and for persons with disabilities at the second regional consultation. The National Disability Programme organizes and funds these consultations from its own resources.

124. In an effort to promote equality and eliminate discrimination, the Programme has adopted various measures to ensure that reasonable accommodation is provided; specifically, it has taken a series of administrative, regulatory, legal and policy measures to ensure that persons with disabilities can enjoy or exercise all human rights and fundamental freedoms on an equal basis with non-disabled persons.

125. These include:

- The establishment in 2013 of the National Centre for Technical and Technological Assistance to ensure that adequate technical assistance is allocated to persons with disabilities. Under an agreement with Montevideo City Council, the latter provides the space for the Centre, while the National Disability Programme is responsible for adapting and renovating the space and managing the Centre;
- The establishment in November 2011 of an orthopaedics laboratory to manufacture artificial limbs for persons from anywhere in the country who have few or no financial resources. The laboratory is the fruit of a cooperation agreement between Uruguay and Cuba. Since its establishment, the laboratory has provided more than 220 prosthetic lower limbs to low-income individuals throughout the country and has carried out 1,122 interventions (consultations, physical-social assessments and prosthesis repairs). Six million pesos (about US\$ 285,715) of the National Disability Programme's budget is allocated to the laboratory;
- The provision of assistive devices for low-income persons with disabilities throughout the country. The allocation of these devices is handled by the regional offices of the Ministry of Social Development in coordination with the Honorary National Commission on Disability and the departmental commissions. In 2011, a total of 86 assistive devices were provided. The National Disability Programme had a budget of 2 million pesos (about US\$ 95,240) to meet demand in 2012. The assistive devices programme will be transferred to the National Centre for Technical and Technological Assistance, along with the orthopaedics laboratory, with a concomitant budget increase;
- The instalment of audio induction loops for hard-of-hearing persons: this is being carried out in coordination with the Argentine National Institute of Industrial Technology, the Faculty of Engineering of the University of the Republic and the Vocational University of Uruguay. The loops will be installed free of charge in cultural centres, theatres or collective housing units, mostly in places frequented by older persons who are hard of hearing;
- The funding of Uruguayan sign-language courses for public officials in various departments around the country, under an agreement between the National Disability Programme and the Research and Development Centre for Deaf Persons, with an annual budget of 1 million pesos (about US\$ 47,600);
- The establishment of the first health-care unit for deaf persons, as a result of the coordination between the National Disability Programme, the Uruguayan Federation of Parents of Persons with Intellectual Disabilities, Montevideo City Council and the State Health Services Administration. The unit was inaugurated on 20 July 2012 and is the first health unit for deaf persons in Uruguay and Latin

America, and only the seventh worldwide. It is staffed by a team of doctors, nurses, psychologists, social workers and interpreters who know Uruguayan sign language. The National Disability Programme has allocated an annual budget of 650,000 pesos (about US\$ 30,950) for the salaries of the health-care staff. Montevideo City Council provides the unit's physical facilities and equipment;

- The establishment in 2012 of a fund to support innovative proposals for the inclusion of persons with disabilities and research into new technologies that could benefit them. The fund has a budget of 1.2 million pesos (about US\$ 57,140), provided by the National Disability Programme;
- Support for a transport service that is accessible to persons with reduced mobility, managed by the Honorary National Commission on Disability and covering the department of Montevideo. One million pesos (about US\$ 47,620) has been allocated for this service;
- The establishment of a nationwide legal advisory service for persons with disabilities and their families;
- The management of the Tiburcio Cachón Rehabilitation Centre for the Blind and Visually Impaired. Since 2012, this comprehensive rehabilitation service has been operated and updated by strengthening the technical team and increasing the budget for its running costs. It is expected that 100 persons per year on average will be rehabilitated at the Centre. The Centre runs a comprehensive home-based rehabilitation programme for persons who have limited mobility due to their health, age or social and family situation. There are also basic and functional rehabilitation units in the country's interior. In addition to those in Soriano, Tacuarembó and Maldonado, in the second half of 2012 new units were added in Artigas, Salto, Rivera, Paysandú, Colonia and San José. In the medium term, there are plans to cover all 19 departments and to offer community-based rehabilitation. To that end, a training programme for community health workers and local contact persons will be rolled out;
- The inclusion, beginning in 2012, of a cross-cutting gender perspective. Thanks to this initiative, the issue of disability is taken into account in two main areas within the Ministry of Social Development: (a) in the work of the National Women's Institute, which includes women with disabilities in all its activities, as reflected in its outreach materials on rights, its training courses, and its services for victims of violence; and (b) in the work of the technical teams that provide family care;
- Awareness-raising, training and dissemination activities to provide access for women with disabilities to sexual and reproductive health services. These activities are aimed at associations of persons with disabilities and at the health-care teams and administrative staff who provide such services. In addition to the activities carried out in workshops, information and support materials are also available, and a manual of good practices is being developed. These activities are carried out in coordination with the Secretariat of the Disability Management Programme of Montevideo City Council and the Ministry of Health, with support from UN-Women and the Pan American Health Organization.

126. In the labour sphere, training is being delivered to enable persons with disabilities to join the workforce. To this end, an agreement is being negotiated with the Vocational Training Programme for Persons with Disabilities run by the National Institute of Employment and Vocational Training, to enable the implementation of the employment strategy for persons with disabilities in Uruguay. A working group is also being established under the auspices of the Ministry of Labour and Social Security on the inclusion of persons with disabilities in the Ministry's plans and programmes;

these include training and support programmes for work cooperatives, the National Employment Office and employment centres. Under current legislation, the State is required to fill 4 per cent of positions in the civil service with persons with disabilities, but there are no incentives for private companies to hire persons with disabilities.

127. With regard to education, the National Disability Programme participates in a commission on continuing education for former students of special schools. Representatives of the special education and adult education sectors, the Ministry of Education and Culture and the Vocational Training Programme for Persons with Disabilities also participate. The objective is to strengthen civil society associations that take on the education of students from special schools, with an emphasis on job training. In the second half of 2012, an institutional mapping exercise was begun, with a view to systematizing information on the existing resources of this type and to provide State support to help reach this objective.

128. At the municipal level, Montevideo City Council is taking various measures, including the allocation of permits to set up kiosks and stalls at fairs at a reduced cost.

Article 6: Women with disabilities

129. In addition to the measures taken by the State in relation to equality and non-discrimination, others have been implemented in the area of women with disabilities.

130. The Disability and Gender Unit was set up under the National Disability Programme to monitor all the Programme's activities from a gender perspective. The gender perspective is evaluated by all governing bodies and programmes of the Ministry of Social Development, including those linked with the National Women's Institute.

131. The National Disability Programme consistently takes measures to ensure respect for human rights while providing training and working with civil society on research into the sexual rights and reproductive rights of women with disabilities.

132. Despite these measures, the Government recognizes that gender equality programmes at the national level have not specifically addressed women with disabilities. Although materials have been published in accessible formats, no related training has been provided for women with disabilities. Quotas for women with disabilities have not been established in gender programmes, but disability is starting to be considered as one of the forms of diversity to be taken into account in regional programmes, with the participation of the National Disability Programme.

133. At the departmental level, the majority of persons with disabilities in the department of Montevideo are women. The Secretariat of the Disability Management Programme of Montevideo City Council has been working on gender issues for a number of years. Since 2010, its activities have received support, including financial support, from various United Nations agencies, particularly UN-Women.

134. The Secretariat of the Disability Management Programme of Montevideo City Council also coordinated a project on the sexual and reproductive rights of women with disabilities. The main outcome of the project was the publication of a study on the barriers faced by women with disabilities in accessing health services in Montevideo. In parallel, workshops designed to empower women with disabilities to claim their rights were organized.

135. In 2012, as a consequence of this project, a training and awareness-raising programme on these issues was established for civil society groups and health-care professionals throughout the country.

Article 7: Children with disabilities

136. Uruguay has adopted Act No. 17823 (Code on Children and Adolescents), article 8 of which (General principle) stipulates that all children and adolescents enjoy the inalienable rights of the human person and that such rights are to be exercised in accordance with the development of their faculties, and in the manner enshrined in the Constitution of the Republic, international instruments, the Code and special laws. They are entitled in all cases to be heard and to obtain an explanation when decisions are taken that have an impact on their life.

137. Pursuant to the Code, all children and adolescents have access to the courts and can take legal action in defence of their rights; the provision of legal aid is mandatory. The competent court is required, where appropriate, to appoint a guardian to represent them and to assist them in presenting their claims.

138. The courts are required, and have a solemn responsibility, to take the necessary measures to ensure compliance with the above provisions, and any action taken in breach thereof is null and void.

139. Article 10 (Rights of differently abled children or adolescents) stipulates that all children and adolescents with different mental, physical or sensory abilities are entitled to living conditions that ensure their participation in society, in particular through effective access to education, culture and employment. This right is protected regardless of the age of the person concerned.

140. With regard to access to justice, children with disabilities are heard by the courts and the competent court appoints a legal representative to assist the child and ensure due process.

141. The Uruguayan Institute for Children and Adolescents has created a participative council that includes children with disabilities, to make proposals for improving the management of disabilities and meeting their needs.

142. In the area of health care, the programme “Monitoring High-Risk Newborns” (SERENAR), which is overseen by the State Health Services Administration (ASSE), is aimed at the prevention, detection and early treatment of disabilities in newborns facing neuro-cognitive development risks, and is implemented in all the country’s public health-care institutions. There are eight early-treatment units in the country, with multidisciplinary teams of specialists in psychomotor therapy, physiotherapists, psychologists and paediatricians: three are located in Montevideo (Pereira Rossell Hospital, Unión Health-Care Centres and Cerro) and five in other parts of the country: in the hospitals of Durazno, Maldonado, Salto, Tacuarembó and Treinta y Tres. The beneficiaries are users of the State Health Services Administration with any of the risk indicators, who are referred on medical grounds by one of the branches of the State Health Services Administration.

143. With regard to mother-and-child health-care services, the Social Insurance Bank covers pregnancies and deliveries for women covered by the system of family allowances in cases of high-risk pregnancy, pathologies associated with the perinatal period and/or foetal malformations. The benefits include specialized coverage, special treatment during pregnancy, analysis by persons with special expertise, preventive and therapeutic hospitalization and other appropriate interventions. Congenital disorders are also studied with a view to preventing or alleviating a disability: for example, there have been studies of congenital hypothyroidism in the umbilical cord blood of newborn infants, phenylketonuria and congenital adrenal hyperplasia.

144. A national research plan is currently being implemented that will make it possible to detect approximately 20 congenital disorders anywhere in the country.

145. The Uruguayan Institute for Children and Adolescents runs care centres for children with intellectual or motor disabilities which develop their potential to function as independently as possible, paying special attention to the child's family. Among the categories of benefit provided are food and housing in cases involving long-term stays in collective living quarters. Persons in the 0 to 18 age group with an intellectual or motor disability gain access to the centres through the Study and Referral Centre of the Uruguayan Institute for Children and Adolescents, or they may be referred by other services run by the Uruguayan Institute for Children and Adolescents.

146. The Social Insurance Bank provides various financial benefits to promote the comprehensive rehabilitation of persons with disabilities. The following are entitled to these benefits: persons who receive family allowances in respect of dependent children or minors with disabilities (beneficiaries of the system include members of a collective medical care institution where the institution is not required to cover the treatment or technical assistance required for rehabilitation); and beneficiaries of an invalidity pension attending special schools, rehabilitation institutes, schools and institutes accredited by the National Public Education Administration which support educational integration, or secondary schools, universities and recreational or sports institutions whose activities promote comprehensive reintegration.

147. The allowance comprises a sum to assist in meeting the cost of the attendance fee or to pay for the transport of the beneficiary, or the persons accompanying him or her, to and from the location in question. Children with disabilities of officials of the Social Insurance Bank receive a similar allowance.

148. With regard to education, there are 75 special schools in the country, 26 of which are located in 26 different districts of Montevideo. The schools are classified by the type of disability for which they cater: 20 cater for intellectual disabilities, 3 for auditory disabilities, 2 for visual disabilities and 1 for motor disabilities. Outside the capital city, 49 special schools are distributed among the different departments. They consist of a maximum of six grades, following which pupils enrol in specialized pre-occupational and occupational activities; they may also enrol in regular schools with a view to integration into the classroom. Enrolment is based on age (between 5 and 15 years) and a psycho-diagnostic assessment, which can be conducted in various institutions. In April 2010, 7,778 pupils were enrolled in the country as a whole.

149. In addition, the School Transport Programme run by the Early Childhood and Primary Education Board of the National Public Education Administration provides transport facilities for children in the 4 to 17 age group from their homes to educational establishments, including for pupils with disabilities. It also provides transport to educational establishments for pupils in remote rural areas. This service may be extended to pupils in secondary education.

150. With regard to the effective participation of children and young people, Uruguay has been implementing a Youth Participation Project with a view to involving young people in Uruguayan democracy and laying the basis for their future role in the political system. The Project focuses on the strengthening of local youth social action networks that may have an impact on the public-sector agenda and the agenda of local and national legislators.

151. The specific objectives include: motivating young people to launch citizen participation initiatives at the local and national level; creating intervention and voluntary services at the local level; introducing youth-related topics into the public agenda; forging links between the National Parliament, the departmental councils and

young people; and encouraging young participants in the Project to publicize the aim of citizen participation in various local media outlets.

152. Young people who participate in the programme propose public policy projects to the municipal and national legislatures. The Project is run at the local level with the involvement of three stakeholders: young people, the departmental council and national lawmakers.

153. This action will follow the on-site activities associated with the “Towards a Youth Parliament” project of the Office of the President of the Chamber of Deputies.

Article 8: Awareness-raising

154. The Government of Uruguay is committed to implementing measures to increase society’s awareness of the rights of persons with disabilities and to foster respect for and preserve the dignity of persons with disabilities.

155. Measures have been taken to combat stereotypes, prejudices and harmful practices relating to persons with disabilities.

156. The Government’s strong commitment is reflected in the presence throughout the country of institutions for the protection of the rights of persons with disabilities.

157. The Ministry of Social Development, through the National Disability Programme, has established a system of regional focal points in each of the country’s departments, defined a cross-cutting approach to activities under the various programmes operating in the regions, and created specific forums for work on disability issues.

158. This comprehensive approach has led to the realization that the social network is fragmented and compartmentalized when it comes to persons with disabilities.

159. This work is supported at the political and administrative level by the Ministry of Social Development, which has an office and a departmental director in each of the country’s departments.

Training on disability issues

160. The Social Insurance Bank opened the Centre for Studies on Social Security, Health and Administration in 2009. To house the Centre, a building was adapted and made accessible in accordance with the UNIT 200:2010 standards adopted by the Uruguayan Institute of Technical Standards (UNIT) relating to accessibility of the physical environment to persons with disabilities. The Centre aims to promote training on social security matters through the delivery of courses to various groups, including civil society organizations. Although the Centre is used for a great variety of events on social issues, many people attend for training and refresher courses on disability issues.

161. In the 18-month period from the beginning of 2010 to mid-2011, 643 participants received training in eight courses on disability issues.

162. The National Disability Programme is also pursuing a strategy of awareness-raising and promotion of the rights of persons with disabilities through the Promoters of Inclusion project, designed to train a group of volunteers — both young people and older persons — on the subject of social inclusion. This project, which has a training component and an awareness-raising component, is implemented with different groups in different parts of the country and aims to build capacity so that local people can take ownership of the issue and become rights education multipliers. The project is

managed through the regional offices of the Ministry of Social Development in coordination with other institutions and local government bodies.

163. The National Disability Programme also regularly conducts training and awareness-raising activities such as lectures, seminars and conferences. For example, in December 2009 it organized an outdoor photo exhibition in three locations in the capital.

164. Furthermore, various agencies of the Uruguayan Government carry out awareness-raising campaigns to draw attention to the situation of persons with disabilities. The National Disability Programme implements media strategies (television, radio, billboards, press, brochures in accessible format and posters) to raise awareness about the rights of persons with disabilities in an effort to change attitudes and behaviour in the wider community.

165. In order to strengthen and ensure access to information, there are plans to make a nine-episode television series for broadcast on national State-owned television, with budgetary resources from the National Disability Programme. In September 2012, the bidding process for the production of the series will begin. The Programme distributes a digital monthly newsletter to associations of persons with disabilities; starting in October 2012, the newsletter will be produced in video format in Uruguayan sign language and will be available on the Programme's website.

Awards

166. As part of Disability Week (3-10 December), the National Human Rights Commission has set up the "Solidarity Link" award programme to honour individuals, public or private organizations, businesses and media outlets that, over the course of the year, have undertaken activities to promote the social, educational, cultural and occupational integration of persons with disabilities. To date, some 300 Solidarity Link awards and special mentions have been presented at national level.

167. In addition, in 2007, the National Human Rights Commission created the *Odiseo award* to highlight the successes of persons with disabilities who have made an outstanding contribution in various walks of life. To date, approximately 70 persons with disabilities from across the country have received this award.

Dissemination of the Convention

168. Efforts are being made to disseminate the Convention in a variety of forums, including the advisory councils on disability, in which civil society organizations and disability specialists participate.

169. Work is under way in all departments nationwide, in consultation with various agencies and civil society organizations, on the drafting of the National Plan for Equal Opportunities and Rights, which is based on the articles of the Convention.

170. At the municipal level, the Secretariat of the Disability Management Programme of Montevideo City Council includes in its annual plan an action line for awareness-raising and sensitization on the rights of persons with disabilities, which refers to:

- The "Commitment to Accessibility" campaign on how to transform the city into an accessible and friendly place (the departments of Maldonado and Canelones are also involved);
- Publication of a pamphlet on the appropriate treatment of persons with disabilities (20,000 copies printed and also distributed outside the capital);
- The "Promoters of Inclusion" awareness-raising programme: this programme is aimed at various communities, educational institutions and groups, and has been

under way since 2009. Some 200 young people have participated, organizing more than 160 activities for thousands of people from the programme's inception until July 2012;

- **Training:** the secretariats for disability and sports coordinate and conduct workshops, courses and seminars on recreational and sports activities for stakeholders from civil society, teachers, educators, students and persons with disabilities and their families. Since 2009, approximately 20 workshops have been held, in which some 700 people from different parts of Montevideo and the rest of the country have participated;
- **Distribution of the Convention on the Rights of Persons with Disabilities** in accessible format and with an audio description;
- *Montevideo Integra:* an annual exhibition organized jointly with social agencies, at which approximately 90 organizations from Montevideo and the rest of the country working in the areas of disability-related education, social work and employment are represented.

Article 9: Accessibility

171. Act No. 18651 on the protection of persons with disabilities establishes specific legislative measures on accessibility.

172. Article 76 of the Act establishes "as a priority the removal of physical barriers in order to ensure accessibility for persons with disabilities" through the implementation of UNIT technical standards on accessibility in: (a) existing, newly created or fully or partially refurbished architectural and urban areas and transportation; (b) public buildings and private buildings used by the public; (c) areas that are not accessible to the general public or industrial and commercial buildings; (d) individual housing; (e) group housing.

173. Article 78 provides that in order to fulfil the obligations under article 76 of the Act, it is necessary to comply with the relevant provisions of the UNIT technical standards on accessibility, also taking into account the items specified below and anything that is not referred to explicitly but is considered appropriate:

- **Pedestrian pathways:** these must be of a minimum width throughout to allow for the passage of wheelchair users. Floors must have a non-slip surface without any bumps or holes that could obstruct wheelchair users. The design, gradient and incline of slopes of all kinds must be such that the accessibility, usability and safety of persons with disabilities are ensured;
- **Stairs and ramps:** the use of stairs must be facilitated for persons with disabilities and stairs must be equipped with handrails. Ramps must have the characteristics set out for slopes in paragraph 1 above;
- **Parks, gardens, squares and open spaces:** pedestrian routes must comply with the provisions established for pathways in paragraph 1 above. Public toilets must be accessible and usable by persons with disabilities;
- **Parking:** on-street parking must include designated reserved accessible places, close to pedestrian access points, for vehicles transporting persons with disabilities;
- **Signs and street furniture:** these must be accessible and such that they do not pose an obstacle, particularly for blind or visually impaired persons or wheelchair users;

- **Roadworks:** these must be signposted, fenced off and clearly identifiable in advance. If the works block part of the width of the footpath, an alternative pedestrian route must be constructed with the characteristics listed in paragraph 1 above.

174. With respect to buildings:

- Account must be taken of accessibility, and all parts of the building must be suitable for use by persons with disabilities;
- If the building has parking facilities, accessible spaces should be reserved close to pedestrian access points;
- There should be both horizontal and vertical circulation that enables the movement and manoeuvring of persons with disabilities;
- There should be reserved areas that are marked and adapted for use by wheelchair users;
- They should have toilets adapted to the needs of persons with disabilities.

175. For the purposes of the areas described in article 76 (c) of the Act, the levels of adaptability to persons with disabilities must be specified.

176. With regard to the housing described in article 76 (b) of the Act, the provisions of the Act and its regulations shall be observed, where appropriate, in its design, construction and refurbishment.

177. Article 79 stipulates that the priorities, requirements and deadlines for the adjustments referred to in articles 76 and 78 of the Act concerning urban barriers and public buildings must be established in the regulations on the basis of accessibility plans, and their full implementation must be completed within eight years of the date of entry into force of the Act.

178. For all new construction, the approval of plans will be dependent on their compliance with the provisions of the Act, its regulations and the relevant municipal provisions on the matter.

179. For all renovation work, the appropriate adjustments must be made, where possible, in accordance with the provisions of this Chapter.

180. In accordance with this legal framework, the Government of Uruguay has taken measures to ensure that persons with disabilities have access, on an equal basis with others, to the physical environment, to transportation, to information and communications, and to other facilities and services open to or used by the public, in both urban and rural areas.

181. The Social Insurance Bank is building housing for retired persons and pensioners that meets the UNIT standards on accessibility of the physical environment. Fifteen per cent of the total number of houses built by the Social Insurance Bank are reserved exclusively for persons with disabilities.

182. In agreement with the departmental authorities, the Ministry of Housing, Land Management and the Environment establishes the priorities for carrying out the relevant construction work.

183. Within the legislative framework on accessibility, Act No. 18308 on land management and sustainable development was adopted. Article 6 of the Act provides that everyone has the right to shared general use of all public road networks, pedestrian pathways, banks of waterways and open and recreational spaces, and also to non-discriminatory access to equipment and services for public use, in accordance with existing rules, and that this is guaranteed for differently abled persons.

184. Sign language is another important subject. In Uruguay, Act No. 17378 of 27 July 2001 recognizes Uruguayan sign language as the natural language of deaf persons and their communities for all purposes throughout the territory of the Republic.⁴ Article 7 of the Act provides that all State or municipal establishments or agencies that are accessible to the public must have signage, notices, visual information and illuminated alarm systems that can be recognized by persons who are deaf or hearing impaired.

185. Special mention should be made of Act No. 17066 of 1988 and its Decree No. 320/999, on “General policy on old age: technical regulations on private accommodation for older persons”, which was extended to public institutions in 2010 (88/010). These regulations govern technical aspects related to residential homes and care homes (for-profit and not-for-profit permanent housing services respectively), day centres and night shelters (part-time) and family placement services (provided by family groups).

186. The following departmental councils have specific regulations on accessibility: Montevideo (*Digesto Departamental*), Canelones (regulations on technical standards on accessibility and the elimination of barriers), Paysandú (Decree No. 2248/1994 on access of persons with disabilities to public spaces) and Colonia (standards on urban adaptation for persons with disabilities).

187. Progress made in relation to vehicles for the public transportation of passengers is also monitored, as these should be adequately fitted out to enable persons with disabilities or reduced mobility and wheelchair users to board and disembark.

188. Vehicles should also provide adequate space for the passenger and for canes, wheelchairs and other equipment needed by persons with motor disabilities. A deadline of five years has been established for vehicles in all of the country’s departments to be equipped for this purpose.

189. In 2010, in its municipal resolution 1666/10, Montevideo City Council established that, in order to renew the fleet of urban buses, 10 per cent of the vehicles used by the various companies must comply with accessibility criteria.

190. Maldonado City Council does not have accessible buses but has introduced vans for the transport of persons with reduced mobility. The vans make approximately 4,000 trips a year carrying persons with disabilities and older persons. The purchase of an accessible bus has been approved in the municipality of San Carlos in the department of Maldonado. The bus service will be managed by a committee set up by the local authority and civil society organizations.

191. Rivera City Council has signed an agreement with the Pan American Health Organization to develop a generic accessibility plan for the city of Rivera. The plan provides for a specially equipped bus with an elevating platform and suitable places for passengers that will run from Monday to Friday. The generic plan also includes accessibility training for the community and urban infrastructure adaptation projects.

192. Another aspect of accessibility in the field of transport concerns bus stations, mooring sites and airports, where pedestrian pathways must be wide enough to allow persons with disabilities to pass. Floors must have a non-slip surface without any bumps or holes that might cause them to fall, and the design, gradient and incline of slopes of all kinds must be such that they can be negotiated and used safely.

193. The infrastructure projects necessary for the implementation of this requirement should be completed within eight years of the date of entry into force.

⁴ Available at www.parlamento.gub.uy/leyes/ AccesoTextoLey.asp?Ley=17378&Anchor=

194. Ports and airports must have mechanical lift systems to enable passengers with disabilities to board and disembark where no alternative system is in place for this purpose.

195. With regard to free transport services for persons with disabilities, which are subsidized by the rest of society, after a review it was decided that public transport companies providing national and regional services should be required to offer free transport to those persons with disabilities whose social situation warrants it.

196. In order to determine whether a person is eligible, the following items, among other things, must be produced: (a) certified proof that the individual is in receipt of disability benefits or has retired because of disability; (b) the health-care assistance card issued by the State Health Services Administration; or (c) a document certifying that the individual attended or is attending a special school for persons with disabilities.

197. Montevideo City Council provides a free transport pass to persons with disabilities; currently 16,000 persons in the capital are beneficiaries of this scheme.

198. In addition, standards and technical guidelines, such as the regulatory decrees on construction plans set out in the *Digesto Municipal* of Montevideo, have been adopted, and there are special provisions on projects and urban adaptation for persons with disabilities. These standards and guidelines deal with accessibility to the physical environment: they establish criteria and general design requirements for the built environment to be considered accessible.

199. Persons with disabilities who have been affected by non-compliance with accessibility rules may lodge complaints with the Secretariat of the Disability Management Programme.

Identification and elimination of obstacles and barriers to accessibility

200. In the context of its policy on social responsibility, UNIT has been implementing the Accessibility Certification Programme since 2005, free of charge, with the aim of encouraging organizations to contribute to the gradual elimination of architectural and urban barriers in compliance with the regulations, for the benefit of society as a whole.

201. Another important innovation is the Commitment to Accessibility project, an agreement concluded in 2010 between the city councils of Montevideo, Canelones, Maldonado and San José (the latter joined in 2012) and the National Disability Programme. Under this initiative, other public, private and civil society institutions are called upon to propose actions to eliminate barriers that impede civic integration. Each institution defines its commitment and the measures it will implement.

202. The project's objectives include promoting and driving change in various environments. It seeks to advance the ongoing process of ensuring that the rights established in the Constitution, domestic laws and international recommendations and conventions are respected. This is a far-reaching programme, with a special theme identified each year. 2011 was designated the year of accessibility in order to build momentum for the project. In 2012 the focus was on accessibility measures being implemented in public spaces in cities, although attention was also paid to other kinds of inclusive activities carried out by public and/or private institutions or companies and civil society organizations. Information on the project is available on the website www.accesibilidad.gub.uy, as well as in pamphlets, posters and stickers. There is a central coordination and management team for the programme, composed of the National Disability Programme and the city councils of Montevideo, Canelones and Maldonado.

Other regulatory measures

203. The first international standard on accessibility, ISO 21542, entered into force in December 2011. The Specialist Committee of the Uruguayan Institute of Technical Standards (UNIT) is currently considering the possibility of adopting this text as a UNIT standard.

204. Montevideo City Council provides for the implementation of UNIT standards in its regulations. The Council's headquarters are currently being refurbished to that end.

205. The departmental council of Paysandú adopted Departmental Decree No. 2248/94 on accessible buildings, including both housing and public infrastructure, in 1994.

206. Despite these regulatory and policy advances, the Government of Uruguay recognizes that one of the shortcomings of its system is the lack of monitoring of compliance with accessibility regulations (including those related to transport) and the absence of sanctions for non-compliance.

207. Furthermore, the Government of Uruguay acknowledges that no national accessibility plans have as yet been drawn up.

Article 10: Right to life

208. The Constitution stipulates that all inhabitants of Uruguay have the right to be protected in their enjoyment of life, honour, liberty, security, employment and property.

209. Persons with disabilities are not subject to any arbitrary deprivation of life; their constitutional rights are respected.

Article 11: Situations of risk and humanitarian emergencies

210. Under Act No. 18621, Uruguay established the National Emergency System — a permanent, public system designed to protect persons, critical infrastructure and the environment in the event of real or potential disasters, through action by the State combined with the appropriate use of available public and private resources in order to create the necessary conditions for sustainable national development.

211. The mission of the National Emergency System is to coordinate the duties and responsibilities of public bodies and agencies, social institutions and individuals in disaster prevention and mitigation, assistance, rehabilitation and recovery; to coordinate public and private efforts efficiently and effectively, in accordance with the needs identified at each phase of the operations; and to guarantee the timely, effective and efficient management of all the human, technical, administrative and economic resources needed to carry out the necessary actions.

212. The National Emergency System has not developed any specific protocols for assisting persons with disabilities in national emergency situations. However, in the course of its coordination duties, it works on a case-by-case basis with institutions specializing in that area.

213. The work of the National Emergency System has been primarily focused on providing assistance to people living in the street, regardless of whether they have a disability or not, in cooperation with Ministry of Social Development and its institutions and programmes.

Article 12: Equal recognition before the law

214. Under Uruguayan law, “legal capacity” means that a person is a bearer of rights and has the ability to assume obligations. Any person who is born and lives for a full 24 hours is considered to be a human being and to have legal capacity.

215. The capacity to execute a legal act is the ability individuals have to personally exercise or assert their rights and fulfil their obligations.

216. No restrictions are placed on the rights of persons with disabilities, except those who have been declared incompetent and who cannot manage themselves or their own affairs, in which case the court may consider it necessary to appoint a guardian to protect their rights or property.

217. Once a person has been declared incompetent and recorded as such in the register of personal actions (“Interdictions section”), any subsequent legal acts or contracts executed by the incompetent respondent are considered null and void. Any acts or contracts concluded earlier could be voided if the cause of the interdiction existed publicly at the time they were executed.

218. At all events, the case law of the national courts has kept pace with international standards and, pursuant to various judicial decisions, persons with an intellectual disability have been allowed, after a series of tests, to exercise the right to vote in national and municipal elections, referendums and plebiscites, without prejudice to previously established conditions of employment or arrangements for managing their earnings, all other considerations remaining consistent with previous decisions.

219. Persons with disabilities in Uruguay can, on an equal basis with others, apply for bank loans, mortgages and other financial services, and have the same rights as anyone else not to be deprived arbitrarily of their assets.

220. There are, nonetheless, two constitutional provisions that seriously restrict recognition of the legal capacity of persons with disabilities, as the Government itself has acknowledged.

221. The first is article 80 of the Constitution, which stipulates that: “Citizenship shall be suspended: (1) For reasons of physical or mental incompetence that prevents its free and reasoned exercise.”

222. The second is article 37 of the Constitution, which stipulates that:

All persons are free to enter, remain in and leave the territory of the Republic with their possessions, subject to the law and provided they do not harm others. Immigration shall be regulated by law, but under no circumstances shall admission be granted to immigrants with physical, mental or moral defects that could be harmful to society.

223. Under Uruguayan law, once a person has been declared incompetent by a duly recognized authority, this may, in addition to other consequences, restrict his or her rights in the following areas:

- *Marriage*: Marriage is a legal contract, and therefore, persons entering into it must have volitional ability in order for it to produce its intended effects. Article 91, paragraph 2, of the Civil Code stipulates that “a lack of consent on the part of the spouses” is an absolute impediment to marriage. For this reason, an incompetent may not contract marriage. If he or she does, the marriage is invalid, does not establish a putative union, is unjustifiable and does not give rise to a marriage partnership;

- *Divorce*: The divorce action is characterized by its highly personal nature and may therefore be brought by one of the spouses independently of the other. In the event that one of the spouses becomes incompetent during the marriage — which is a ground for divorce — only the spouse with legal capacity may institute divorce proceedings, and neither the incompetent nor his or her guardian may do so. The guardian participates in legal proceedings on behalf of the incompetent;
- *Acknowledgement of paternity of biological children*: The law stipulates that persons wishing to expressly or tacitly acknowledge their biological children must meet the basic requirement of possessing legal capacity. Since such acknowledgement is a voluntary and conscious act, it can only be performed by persons who are capable of making a value judgement and understanding the scope and implications of their actions;
- *Paternity investigations*: Article 198 of the Code on Children and Adolescents stipulates that proceedings to determine biological paternity or maternity may be initiated directly by a son or daughter upon reaching the age of majority, or by a minor empowered to do so through marriage, up to the age of 25. During the period of minority, the minor's mother, father or legal representative may initiate the proceedings. Uncertainty arises when such proceedings are not brought while the young person is a minor, and he or she is subsequently precluded from doing so;
- *Maintenance obligation*: Pursuant to article 116 of the Civil Code, by the mere fact of marriage, the spouses undertake the obligation to provide for and educate their children, preparing them for a profession or an occupation that is commensurate with their status and circumstances. Article 117 stipulates that, in the event of the failure or inability of the parents to fulfil this obligation, the obligation shall be transferred to the grandparents and other ascendants, irrespective of whether they are biological relatives or in-laws. Article 118 stipulates that the maintenance obligation is reciprocal between ascendants and descendants. Article 120 stipulates that the maintenance obligation extends to brothers-in-law or sisters-in-law, in the event that, owing to bodily defect, mental debility or other reasons beyond their control, the aforementioned persons cannot provide the required maintenance.

224. The existence of a mental disorder may give rise to entitlement to an allowance after the age of majority, which often benefits persons under guardianship throughout their lives.

225. The aforementioned cases apply to persons with an intellectual disability who cannot manage their own affairs.

226. With regard to the legal restrictions contained in the Civil Code, Act No. 17535 establishes the following:

Article 432: Adult incompetents are subject to general guardianship. This category shall include mentally ill persons, even those who have lucid intervals, and deaf-mute persons who cannot make themselves understood in writing or by using sign language within the meaning of Act No. 17378 of 25 July 2001. In the latter instance, the assistance of a sign-language interpreter shall be required for decisions to determine guardianship.

...

Article 1279: Prepubescent, mentally ill and deaf-mute persons who cannot make themselves understood in writing or by using sign language within the meaning of Act No. 17378 of 25 July 2001 shall, in all cases, be considered incompetent. In the latter instance, the assistance of a sign-language interpreter shall be

required for decisions to determine incompetence. Acts carried out by incompetents do not produce even natural obligations and shall not be subject to surety requirements.

Support in exercising legal capacity

227. The Honorary National Commission on Disability provides free legal assistance to persons with disabilities in the form of advisory services. These services are offered with the aim of ensuring recognition of the legal capacity of persons with disabilities. On the basis of various legal precedents, judicial authorities are encouraged to refrain from restricting the rights of such persons unnecessarily.

228. In addition, the National Disability Programme is in the process of setting up a service to dispense free legal advice, in cooperation with the Law Faculty of the University of the Republic. The service will handle claims and requests for guidance from persons with disabilities and their families concerning Social Insurance Bank benefits, domestic violence, maintenance payments, imports of specially adapted vehicles under Act No. 13102, discriminatory situations, tax exemptions for technical devices and the establishment of organizations of and for persons with disabilities.

Safeguards against abuse of supported decision-making models

229. Uruguayan judges currently apply the Convention, particularly the provisions of article 29, through recognition of the status of semi-incompetence. As a result, incompetents who, prior to the entry into force of the Convention for Uruguay, were not authorized to perform certain legal acts because of their status, have been able to exercise certain rights, such as voting, since the Convention entered into force.

Example of legal precedent: First judicial decision in Uruguay to recognize the status of semi-incompetence and to allow a young person with Down syndrome to vote

230. In 2012, the Uruguayan justice system issued a historic ruling regarding the rights of persons with intellectual disabilities. The ruling established that a young man with Down syndrome, who had been declared incompetent, could vote and join cultural, sports or charitable non-profit organizations, provided that doing so was without prejudice to his financial interests.

231. The ruling handed down by the second-circuit Family Court of Appeal held that the young man could vote, since it had been verified that “he had access to information and the possibility of expressing himself freely”.

232. The ruling was based on article 29 of the Convention on the Rights of Persons with Disabilities, which seeks “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity”.

233. The ruling establishes that incompetence is to be analysed from the legal, psychological and social perspectives. The individuals concerned are to continue to receive protection in respect of their property and personal lives, but at the same time they are to enjoy greater levels of participation and integration in society through efforts to give effect to the rights inherent to all persons.

234. The ruling set a precedent in the area of disability in Uruguay, given that judges had previously regarded the rules on partial incapacitation or semi-incompetence contained in the current General Code of Procedure with considerable mistrust.

235. The ruling takes on added importance when one considers that both total and partial interdiction affect the right to freedom, which is a constitutional right. Under

the current law, declarations of incompetence may be either total or partial, and an administrator may be appointed to an incompetent in order to manage his or her assets and participate in decisions regarding the disposal of those assets.

236. The ruling additionally provides for the possibility that incompetents who meet the necessary formal conditions may exercise the right to vote, by entering polling stations freely and voting in accordance with their convictions.

237. The wording of the Civil Code offered judges only two options when it came to decisions on insanity: either a declaration of incompetence or the rejection of a declaration of incompetence. The legal concept of insanity was already broader than the one applied in medical science, inasmuch as it included any mental disorder that prevented a person from being able to manage his or her own affairs or property. In the opinion of the Court, this indicates that the reasons for invalidating a person's capacity to manage his or her person and assets must be examined from a legal/psychobiological/social standpoint, which, in the case of judicial decisions, sets them apart from the ordinary concept of insanity, or other conditions in which the person is unable to reason due to a mental disorder, this concept being irrelevant to the case in question.

238. As permitted by the General Code of Procedure, both the legal rules and case law hold that, with some variations, a decision may take into account semi-incapacity, relative capacity, diminished capacity or partial interdiction, which provides for varying degrees of autonomy.

239. In this case, it is irrelevant whether the illness specified in article 439 of the General Code of Procedure must be mental or whether it can also be a physical illness that prevents the person from caring for him or herself or from managing his or her own affairs (Civil Code, art. 431), inasmuch as expert examinations showed that the respondent has mosaic Down Syndrome, resulting in a low IQ and corresponding, in clinical terms, to moderate mental retardation.

240. As pointed out by one of the judges of the Court, in attempting to address this issue, account should be taken of the fact that, strictly speaking, capacity is the general principle and incapacity is the exception. This opinion implies respect for the dignity of the person, a right embodied in articles 7, 72 and 332 of the Constitution. This right can be inferred from article 350, paragraphs 4 and 5, of the General Code of Procedure and is one of the principles of the Convention on the Rights of Persons with Disabilities.

241. According to article 447 of the General Code of Procedure, judges have the discretion to determine the extent of incapacity, provided that it is not total, based on the respondent's level of discernment, which is determined on the basis of the evidence required under articles 441 and 443 of the Code.

242. In terms of the respondent's autonomy, the following aspects were taken into account:

- *Personal autonomy*, which involves nutrition, personal hygiene and taking care of oneself; even though it was qualified as "insufficient", it could be inferred from the family setting (four siblings and parents) and financial situation (financially stable family with domestic employees);
- *Domestic autonomy*, which is the ability to handle situations that the respondent was previously taught to handle and can resolve without the help or cooperation of others, and to handle problems in dealing with everyday situations linked to difficulties in applying abstract reasoning;

- *Social autonomy*, which is the ability to adapt to a situation, direct one's activities towards a goal and think about the future. In the various areas of life relating to the support the respondent receives and the constraints to which he is subject, the evaluation was good, and the social worker concluded that "his condition does not render him incapable of participating in groups and social activities", although limitations were observed in relation to his ability to recall and analyse the information needed to make his own decisions.

243. In the course of a direct examination of the respondent at the courthouse, which was conducted in the presence of a representative of the Public Prosecution Service, it emerged that the respondent's job in his parents' company (cleaning, processing forms) allows him to work flexible hours and pays him 7,000 pesos a month, which he spends on purchasing a few items (books, CDs, etc.), and that he attended a private school (primary education and three years of secondary education), the address of which he furnished, together with his report cards. In addition, he provided information on the results of his favourite football team and expressed the desire to continue exercising the right to vote, as he had done up to the present, adding that he got his information from radio, television and Internet sources. The photocopy of the voter registration card he submitted attests to the validity of his voting rights.

244. Although the evidence as a whole led to the conclusion that the respondent exhibits moderate mental retardation, with difficulties in the areas of abstract reasoning and problem-solving, it was agreed that the range of activities that he could exercise independently should be expanded.

245. The most controversial issue referred to his exercise of the civic duty to vote. The provision applicable in this case is article 80, paragraph 1, of the Constitution, which governs the suspension of citizenship of persons who, owing to physical or mental disability, are not capable of free and reasoned action. However, in the light of article 29 of the Convention and taking into account the fact that the respondent has access to information and is able to express himself freely, his claim was upheld.

246. As a result, the Court declared the partial interdiction or semi-incompetence of the respondent and expanded the range of rights that he could exercise independently. These include: becoming a member of cultural, sports or charitable non-profit organizations, unless doing so would imply the assumption of financial obligations or engage his responsibility; and exercising the right to vote in national and municipal elections, referendums and plebiscites, without prejudice to previously established conditions of employment or arrangements for managing his earnings.

Article 13: Access to justice

247. Persons with disabilities have the right to effective access to justice on an equal basis with others, without being excluded from judicial proceedings.

Participation in judicial proceedings

248. In Uruguay, it is mandatory for persons who have been declared incompetent or placed under interdiction to be represented in judicial proceedings by the Public Prosecution Service. The aim is to ensure that persons with disabilities are afforded due process. Generally speaking, when minors or incompetents are involved in proceedings, the judge appoints a public defender to them, free of charge, unless the minor or incompetent holds assets in his or her name.

249. The defender accompanies the minor or incompetent throughout the proceedings. This service is provided free of charge by the National Disability Programme and includes the provision of advice but not representation. An agreement to allow the

Law Faculty of the University of the Republic to provide legal representation for persons with disabilities is under negotiation.

250. In Uruguay, interdicted persons are assigned either a guardian or an assistant, depending on their level of disability. Where the level of disability is minor, they may be declared semi-incompetent, in which case they are assigned only an assistant to help them with, for example, transactions. The law provides for the following types of guardianship:

- *Statutory guardianship*: In accordance with article 441, paragraph 1, of the Civil Code, a sane spouse is the statutory guardian of his or her insane spouse. Statutory guardianship is based on a presumption of affection arising from family ties and reciprocal duties. (“441. The husband of a woman who is declared to be incompetent shall be her statutory guardian, and the wife of a man declared to be incompetent shall be his statutory guardian”);
- *Testamentary guardianship*: This type of guardianship is used in cases where the person prescribed by law to act as statutory guardian does not exist or is unable to act in that capacity. According to article 444 of the Civil Code, in all cases in which parents are entitled to appoint a guardian for their minor children, they are also entitled to do so for older children who have been declared incompetent. The appointment of a testamentary guardian is closely linked to the exercise of parental authority and can thus be carried out only by legitimate parents, biological parents who have recognized the child for whom they are being appointed guardian, and adoptive parents;
- *Court-ordered guardianship*: In the absence of a statutory or testamentary guardian, the court shall appoint a guardian. In this case, the Public Prosecution Service must propose two or more candidates “so that the Court may select the one it deems most suitable”. Such decisions are made exclusively by the judge;
- *Legal guardianship*: According to article 443, the guardian of an adult incompetent living in a residential institution shall be the director of that institution, provided that the individual has no other guardian. The director of the institution shall also act as guardian of any children of the incompetent who are under the age of majority.

251. Interdicted persons’ incapacity to manage their own affairs prevents them only from producing the legal consequences of a transaction through their own acts, but does not prevent them from being the object of such legal consequences. In order to achieve this, they must seek legal representation (Civil Code, art. 1254). Persons who are declared incompetent must be represented by a legal guardian in order to participate in legal proceedings. Guardianship is governed by articles 431-459 of the Civil Code.

Code of Criminal Procedure

252. Article 3 (Recognition of human dignity) of the Code of Criminal Procedure stipulates that: “All persons, regardless of their role in the proceedings, and in particular persons accused of a criminal offence, must be treated with respect for the inherent dignity of the human person.”

253. Article 63 of the Code stipulates the following:

Incompetence:

- (a) When a court becomes aware of the incompetence of an accused, it shall make a provisional declaration to that effect and shall appoint a temporary

guardian, without prejudice to the defence case or to the validity of the proceedings completed up to that point;

(b) The guardian shall initiate incompetence proceedings before the competent court and shall abide by the latter's decision. A decision to reject the declaration of incompetence shall not affect the validity of the proceedings conducted by the temporary guardian;

(c) The Court may order the commitment of the accused to a psychiatric institution for examination or treatment until a decision is handed down. Should the accused be indicted, the length of the period of institutionalization shall be counted towards the completion of the sentence.

Brasilia Regulations regarding Access to Justice for Vulnerable People

254. Supreme Court Order No. 7647 provided for the incorporation into internal law of the Brasilia Regulations regarding Access to Justice for Vulnerable People, which were adopted at the Fourteenth Ibero-American Judicial Summit and which are to be taken, where appropriate, as guidelines in this area.

255. The regulations represent a major advance in the identification and systematization of the basic principles of a model of accessible justice on equal conditions that pays special attention to the most vulnerable segments of the population. Their aim is to alleviate the problems and overcome the barriers that prevent vulnerable persons from fully asserting their rights before the justice system.

256. Regulations 3-23 consider as beneficiaries of the regulations persons who, due to reasons of age, gender, physical or mental state, or due to social, economic, ethnic and/or cultural circumstances, find it especially difficult to fully exercise their rights before the justice system as recognized by law. They refer to the following persons, among others: children and adolescents, persons with physical or mental disabilities, persons belonging to indigenous communities, crime victims, migrant workers, internally displaced persons, people living in poverty, persons discriminated against or abused on the basis of their gender, persons belonging to ethnic or religious minorities and persons deprived of their liberty. The document contains a set of rules that are applicable to any vulnerable person involved in a judicial act, whether as a party bringing an action, a party defending his or her rights in an action brought against him or her, a witness or a victim, or in any other capacity. It embodies the principle of respect for the dignity of vulnerable persons by granting them special treatment that takes into account their particular circumstances (regulation 50).

257. A plan of action on access to justice for persons with disabilities, taking account of the articles of the Convention, is currently being drawn up.

Training of judicial and prison system personnel

258. Regulation 24 of the Brasilia Regulations adopted by the Supreme Court states that the regulations are intended for the following persons: (a) those responsible for designing, implementing and assessing public policy within the judicial system; (b) judges, prosecutors, public defenders, attorneys and other civil servants who work in the justice administration system in accordance with the internal legislation of each country; (c) lawyers and other law professionals, as well as societies and associations of lawyers; (d) people who work at ombudsmen bodies; (e) prison police officers and services; and (f) generally, all operators of the judicial system and those who take part in any way in its operation.

259. Accordingly, the training course for aspiring judges contains a human rights module that addresses the topic generically. The Law Faculty of the University of the Republic also teaches courses on the rights of persons with disabilities.

260. In spite of these initiatives, interpreters are not available in all courts, and defence lawyers must make a request to the judge for the services of an interpreter.

261. Although certain aspects have yet to be finalized, the Disability Policy Unit of the Advisory Service on Social Policy and the National Disability Programme of the Ministry of Social Development are working together to draft a national plan on access to justice and legal protection for persons with disabilities. Taking part in the plan's design are representatives of the judiciary, the legislature, the Ministry of the Interior, the National Institute of Criminology, the National Rehabilitation Institute, the Social Insurance Bank, the Ministry of Education and Culture, the Mental Health Programme of the Ministry of Health, the Comprehensive Support Service for Persons Deprived of their Liberty of the State Health Services Administration, the Law Faculty of the University of the Republic, the Bar Association, the Uruguayan Association of Court Clerks and representatives of civil society organizations for persons with disabilities.

262. The plan's objectives include promoting effective access to justice for persons with disabilities with a view to achieving equality of rights, equal opportunities and full inclusion in society.

Article 14: Liberty and security of the person

263. The Civil Code and the Code of Criminal Procedure stipulate that anyone who considers their human rights to have been violated has recourse to an independent judiciary in order to initiate any action provided for not only in the aforementioned codes, but also in the Constitution, such as habeas data, habeas corpus, *amparo* or an application for constitutional review.

264. Nevertheless, the Uruguayan legal system still includes laws such as Act No. 9581 of 1936, article 13 of which provides that any person suffering from a mental illness may be admitted to a public or private psychiatric establishment voluntarily, on medical advice or by police or court order.

Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment

265. Various legal instruments in Uruguay deal with the issue of torture, and although none makes special provision for persons with disabilities, they do apply to all members of the population.

266. Uruguay is a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified by means of Act No. 15798 and promulgated on 27 December 1985. Act No. 17914 of 6 October 2005 provided for the ratification of the Optional Protocol to this Convention. In addition, Uruguay ratified the Inter-American Convention to Prevent and Punish Torture by means of Act No. 16294.

267. Act No. 18026 of 25 September 2006 provided for the inclusion of torture as a separate offence under internal law, which was an important legislative development. Article 22 of the Act stipulates the following:

22.1 Any State official, or anyone acting with the authorization, support or acquiescence of one or more State officials, who inflicts any form of torture on a

person deprived of liberty or a person in his or her custody or under his or her control, or on a person who appears as a witness, expert or comparable party before the authorities, in any manner and for any motive, shall be punished with rigorous imprisonment for a term of between 20 months and 8 years.

22.2 “Torture” shall be understood to mean:

(a) Any act by which severe pain or suffering, whether physical, mental or moral, is inflicted;

(b) Subjection to cruel, inhuman or degrading punishment or treatment;

(c) Any act aimed at dehumanizing or diminishing the physical or mental capacities of the victim, even if it does not cause pain or physical distress, or any act referred to in article 291 of the Criminal Code, where it is carried out for the purpose of investigation, punishment or intimidation.

268. Another law that mentions torture is Act No. 18315 on police procedure, which states in article 15 (Torture or cruel, inhuman or degrading treatment):

Law enforcement staff are explicitly prohibited from inflicting, inciting or tolerating the practice of torture or cruel, inhuman or degrading treatment on any person. Under article 8 of this Act, they may not in any circumstances invoke an order from a superior or special circumstances, such as threats to domestic security or political or social instability, as a justification for such acts, whether carried out by themselves or by third parties.

269. Act No. 18446 provides for the establishment of the National Human Rights Institution, which is responsible for the defence, promotion and protection to the fullest extent of the human rights enshrined in the Constitution and in international law. The members of this institution have already been appointed by Parliament and have begun to discharge their duties.

Article 16: Freedom from exploitation, violence and abuse

270. The punitive provisions that govern the protection of persons with disabilities and minors are contained in section V of the Criminal Code. Article 329 (Abandonment of children and adult incompetents) stipulates that:

Anyone who abandons a child under the age of 10 or an adult incapable of providing for him or herself as a result of mental or physical illness or old age, who was in his or her custody and to whom he or she owed a duty of care, shall be liable to a penalty ranging from 6 months of ordinary imprisonment to 5 years of rigorous imprisonment, provided that the act does not amount to a more serious offence.

271. Article 332 of the Criminal Code (Failure to provide assistance) stipulates that:

Any person who, having found a lost or abandoned child under the age of 10 or a person who is unable to provide for his or her own needs as a result of mental or physical illness or old age, fails to provide these persons with assistance and to notify the authorities, shall be liable to the penalty for abandonment, reduced by between one third and one half. The same penalty shall apply to persons who, through negligence, fail to provide assistance, even though they may notify the authorities, to a person who has lost consciousness or is injured, trapped or buried, or in a situation that threatens his or her life or physical integrity.

272. In addition, article 321 bis (Domestic violence) stipulates that:

Any person who, by means of violence or threats over an extended period of time, inflicts one or more injuries on another person with whom he or she has or has had an affective relationship or ties of kinship, irrespective of the existence of any legal ties, shall be liable to a penalty of from 6 to 24 months' imprisonment. The punishment shall be increased by between one third and one half if the victim is female and if the circumstances and conditions set out in the previous paragraph apply. The aggravated penalty also applies if the victim is under 16 years of age, or if his or her physical or mental capacities are diminished owing to age or for other reasons, and is related to or lives with the perpetrator.

273. Article 365 provides that the following persons shall be liable to a fine ranging from 10 to 100 readjustable units or to the corresponding prison term:

1. (Failure to care for a dangerous mentally ill person) Anyone who has been entrusted with caring for a mentally ill person and who fails to do so, when such failure poses a threat to that person or to others;
2. (Failure to report a dangerous mentally ill person) Any doctor who, having assisted or examined a person suffering from a mental illness that poses a threat to that person or to others, fails to notify the appropriate authority.

274. Article 350 (Abuse of the psychological inferiority of children and incompetents) reads as follows:

Anyone who abuses the needs, inexperience or passions of a minor or the illness or mental impairment of a person in order to secure an advantage for him or herself or someone else and, in so doing, causes the victim to perform an act that produces a legal effect that is harmful to the victim or to a third party, shall be liable, notwithstanding the invalidity of the act, to a penalty ranging from 9 months of ordinary imprisonment to 5 years of rigorous imprisonment.

275. With regard to article 16 of the Convention, Uruguayan law contains general provisions in this area and specific provisions relating to children and adolescents with disabilities that are based on international instruments.

276. Act No. 17514 on domestic violence provides that a judge who has sufficient proof of the occurrence of such violence may take the following measures:

Article 10. To this end, the judge may adopt the following or other similar precautionary measures:

- Order the aggressor to leave the shared residence and provide for the immediate handover of his or her personal belongings in the presence of the bailiff. A judicial inventory shall also be drawn up of the movable property that was removed and that which remained in place, an authenticated copy of which may be issued at the request of the parties;
- Provide for the victim's return to the home or residence that he or she had left for reasons of personal safety, in the presence of the bailiff;
- Prohibit, restrict or limit the aggressor's presence in the home or residence, place of work or study, or other places frequented by the victim;
- Prohibit the aggressor from communicating, interacting, talking or engaging in any similar conduct with the victim, other affected persons, witnesses or the persons who reported the offence;
- Confiscate any weapons in the aggressor's possession, keeping them in the custody of the court in whatever manner the latter deems appropriate.

Prohibit the aggressor from using or possessing firearms and formally notify the competent authority of such prohibition;

- Issue a temporary maintenance order in the victim's favour;
- Order the aggressor to participate in a rehabilitation programme;
- Where appropriate, provisionally settle all issues relating to maintenance payments, custody, tenancy and visits;
- In the event the judge decides not to take any action, his or her decision must state the reasons for such a determination.

277. By Act No. 17559, Uruguay ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Article 23 of the Convention itself states:

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

278. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was incorporated into internal law by Act No. 17559.

279. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was incorporated into internal law by Act No. 17914.

280. Article 329 of the Criminal Code stipulates that:

Anyone who abandons a child under the age of 10 or an adult incapable of providing for him or herself as a result of mental or physical illness or old age, who was in his or her custody and to whom he or she owed a duty of care, shall be liable to a penalty ranging from 6 months of ordinary imprisonment to 5 years of rigorous imprisonment, provided that the act does not amount to a more serious offence.

Accessibility of the services and resources available to prevent violence and to assist victims

281. Uruguay recently adopted Act No. 18850 on the payment of a non-contributory pension and family allowance to the children of persons who died as a result of an act of domestic violence. Entitlement to the benefits is subject to the conditions set forth in the Act. The benefit is intended for single persons over the age of 18 who are completely incapable of engaging in any form of employment, except in the case of persons over the age of 21 who have the means to support themselves. Article 3 (Benefits) states:

The benefits to which the persons described in the foregoing article are entitled shall be paid by the Social Insurance Bank. They shall be as follows:

(a) A monthly allowance in an amount equivalent to the non-contributory welfare benefit for old age or invalidity provided for in article 43 of Act No. 16713 of 3 September 1995;

(b) A special monthly family allowance in the amount of 865 pesos [approximately US\$ 40], which will be increased to 1,168 pesos [approximately US\$ 54] if the beneficiary is enrolled in secondary or tertiary education or suffers from a physical or mental disability that prevents him or her from engaging in any type of remunerated activity.

Article 17: Protecting the integrity of the person

282. Act No. 18335, on patients and users of health services, stipulates that:

All medical procedures shall be agreed between patients or their representative, after they have been given appropriate, sufficient and updated information, and the health-care professional. Patients' informed consent to undergo diagnostic procedures or treatments shall be explicitly recorded in the medical history and may be revoked at any time.

Patients have the right to refuse medical attention and to be given an explanation of the adverse effects that doing so may have on their health.

Where an emergency or manifest force majeure makes it impossible to obtain such consent, where the circumstances do not allow for any delay because of a severe risk to the patient's health or where the illness poses a real danger to society, medical procedures may be performed and shall be duly entered in the medical history.

283. Article 12 of the Act provides that:

Any medical research procedure shall be freely and explicitly authorized by the test subject after the patient has received clear information on the objectives and methodology of the research and once the bioethics commission of the medical institution has approved the protocol in question. In all cases, it shall be mandatory to notify the Bioethics and Quality of Care Commission of the Ministry of Health. The information shall mention the right to voluntary retraction of consent at any stage whatsoever of the research. The Commission shall be established and shall function in accordance with the regulations of the Ministry of Health and shall be advised by professionals who, by virtue of their expertise in the area, are authorities on the topic to be researched.

284. The care of psychiatric patients is governed by Act No. 9581 of 8 August 1936 and the mental health regulations issued by the Ministry of Health.

285. In addition, article 36 of Act No. 18651 on disabilities stipulates that:

The State shall implement strategies to support and promote the prevention of impairment and disability by means of:

- Promotion and education in the area of physical and mental health;
- Education of children and adults in the prevention of risk and accidents;
- Genetic counselling and research into metabolic and other diseases to prevent genetic diseases and birth defects;
- Appropriate prenatal, obstetric, postnatal and newborn care;
- Effective care to enable individuals to recover their health;
- Early detection, timely care and mandatory declaration of incapacitating illnesses in patients of all ages;
- Efforts to combat the unregulated use of addictive substances;
- Timely social assistance payments for families;
- Monitoring of the environment and efforts to combat pollution;
- Control of chemical products used for domestic and industrial purposes and other toxic agents;
- Employee and workplace checks: analysis of measures to be taken in specific situations, working hours, licences, special training for civil servants, equipment for the prevention of accidents, etc.;
- Promotion of a national awareness of safety in general and health in particular.

286. Under article 325 of the Criminal Code, a person who provokes an abortion without the woman's consent is liable to 2 to 8 years' imprisonment. Article 327 provides for aggravating circumstances when the woman is underage or deprived of her reason or senses.

287. Act No. 18426 on protection of the right to sexual and reproductive health also regulates this area. Article 1 (Duties of the State) sets forth that:

The State shall guarantee the conditions for all persons to fully enjoy their sexual and reproductive rights. To that end, it shall promote national sexual and reproductive health policies, design programmes and set up services to implement them, in keeping with the principles and standards contained in the following articles.

288. Article 3 (Specific objectives) provides that:

The specific objectives of the policies and programmes on sexual and reproductive health are as follows:

- (a) Publicize and protect the right of children and adults to sexual and reproductive health services and information;
- (b) Prevent maternal morbidity and mortality and their causes;
- (c) Promote humane childbirth practices that safeguard intimacy and privacy, respect the mother's biological and psychological readiness and cultural preferences, and avoid invasive practices and the unjustified administration of medication;

(d) Promote the roll-out of assistance programmes alongside a risk/harm-reduction strategy that includes a protocol on comprehensive care in cases of unwanted or unaccepted pregnancy and that takes a rights-based approach to health care in relation to sexual and reproductive rights;

(e) Encourage responsible parenthood and ensure access to family planning;

(f) Ensure universal access to a range of safe and reliable contraceptives;

(g) Offer tube ligation and vasectomies, with the informed consent of the patient;

(h) Improve mental health services from the perspective of sexual and reproductive rights and the prevention of physical, psychological and sexual violence and discriminatory behaviour;

(i) Prevent and treat chronic and degenerative diseases of the genito-urinary system;

(j) Promote a healthy passage through the menopause by providing health education;

(k) Prevent and reduce the harm caused by sexually transmitted infections;

(l) Prevent and reduce the harm caused by the consumption of legal and illegal addictive substances.

289. Article 4 (Institutional actions) sets out the following measures to be taken by the State:

In order to achieve the general and specific objectives set out in articles 2 and 3 of this Act, the Ministry of Health shall:

- (a)
1. Issue specific regulations on the comprehensive sexual and reproductive health of children and the training of professionals in the provision of related services;
 2. Launch campaigns to promote the healthy and responsible enjoyment of sexual and reproductive rights;
 3. Take steps to oversee and monitor health management in the area of sexual and reproductive health at the local and national levels;
 4. Implement epidemiological surveillance measures for events that have an impact on sexual and reproductive health;
 5. Strengthen the health information system as a tool for assessing the situation of the population's sexual and reproductive health;
 6. Encourage the use of research into sexual and reproductive health to inform policy and technical decision-making;
- (b)
1. Promote the early identification of pregnant women in order to assess their health status;
 2. Implement throughout the country the current health legislation (Ordinance No. 369/04 of 6 August 2004 of the Ministry of Health) regarding the comprehensive care of unwanted or unaccepted pregnancies, called "Counselling for safe motherhood and measures to protect women undergoing abortions in hazardous conditions";

3. Issue regulations regarding prenatal, obstetric, postnatal and newborn care that include a focus on sexual and reproductive rights;
 4. Foster research and classification of the main causes of maternal mortality, including the reasons for voluntary abortion and the means used to obtain one;
- (c) Provide sufficient information on labour, birth and post-delivery so that, where alternatives exist, women may choose the medical procedure;
- (d) 1. Promote the involvement of men in the protection of women's health and in responsible parenthood;
2. Promote changes in the health-care system that enable men to fully and responsibly enjoy their sexual and reproductive lives;
- (e) 1. Support couples and individuals in achieving their sexual and reproductive goals, including the right to decide on the number and timing of children;
2. Design care protocols in the area of contraception and infertility;
- (f) 1. Provide comprehensive, good quality and timely care to persons of all ages who are subjected to physical, psychological or sexual violence, within the meaning of Act No. 17514 of 2 July 2002 and the National Plan on Domestic and Sexual Violence;
2. Measure the incidence of maternal morbidity and mortality caused by physical, psychological or sexual violence in order to define goals for its reduction;
3. Design protocols for the care of victims of physical, psychological and sexual violence;
4. Include indicators for the detection of situations of physical, psychological or sexual violence in the clinical record;
- (g) Launch information campaigns to prevent chronic and degenerative diseases of the genito-urinary system from a sexual and reproductive health perspective;
- (h) Adopt regulations on comprehensive care for men and women in the period around the menopause, including a gender and sexual and reproductive rights perspective, with a view to improving quality of life and reducing morbidity and mortality linked to diseases associated with this stage of the life cycle;
- (i) 1. Encourage all sexual and reproductive health services to provide education, information and guidance on responsible sexual behaviour and effective methods of preventing sexually transmitted infections among all age groups;
2. Provide prepubescent girls with the necessary information and treatment to prevent the transmission of sexually transmitted infections during pregnancy and birth;
3. Initiate information campaigns to fight discrimination against persons living with sexually transmitted diseases, and protect their rights, including their right to confidentiality;
4. Conduct research into the incidence and modes of transmission of HIV/AIDS and other sexually transmitted infections among various

population groups, including newborns, and disseminate the results in order to better tailor self-care efforts.

Article 18: Liberty of movement and nationality

290. The Constitution defines the Eastern Republic of Uruguay as the “political association of all the inhabitants of its territory”. This does not mean that all inhabitants participate in political life to the same extent: the inhabitants include citizens, a group that includes a subgroup of citizens exercising citizenship. Therefore the Constitution distinguishes between two categories, namely, citizens by birth and naturalized citizens.

291. Under Act No. 16021, those born in Uruguay and their children are citizens *jus soli*. Children born to a Uruguayan father or mother are citizens *jus sanguinis*, but cannot transmit their nationality to their children unless they are also citizens. The term used under the law to designate the nationality of the republic is “Uruguayan”, which, pursuant to Act No. 16021, applies to citizens and the children of citizens.

292. In practice, persons with disabilities may enter and exit the country freely.

293. The following two articles of the Constitution are in conflict with the Convention on the Rights of Persons with Disabilities:

Article 37: All persons are free to enter, remain in and leave the territory of the Republic with their possessions, subject to the law and provided they do not harm others.

Immigration shall be regulated by law, but under no circumstances shall admission be granted to immigrants with physical, mental or moral defects that could be harmful to society.

Article 80: Citizenship shall be suspended:

(1) For reasons of physical or mental incompetence that prevents its free and reasoned exercise.

Measures adopted for the registration of children with disabilities immediately after birth

294. Under article 25 of Act No. 17823 on the right to an identity:

Without prejudice to Civil Registry regulations, a newborn shall be identified through foot and fingerprints in combination with the mother’s fingerprints. All public and private maternity wards shall record these, in fulfilment of the provisions of the previous paragraph, at the time of birth. A copy of the record shall be provided to the mother and to the Civil Registry. Doctors and midwives who assist with births outside maternity wards shall keep a record in the same manner and, where this is not possible, shall note this fact in the medical history. In the latter case, and in situations other than those mentioned previously, the newborn’s foot and fingerprints shall be taken upon registration in the Civil Registry.

Article 19: Living independently and being included in the community

295. Article 25 of Act No. 18651 (still not regulated) authorizes the Executive to establish, within the Social Insurance Bank, a personal assistance programme for persons with severe disabilities. Article 26 authorizes the Executive to grant an

allowance to hire personal assistants for those with a recognized need for help in performing basic everyday activities. This programme fits in with the national health-care system that is currently being set up, and whose target groups include persons in a situation of dependence on account of a disability.

Options for residential services

296. Article 37 of Act No. 18651 stipulates that:

The Ministry of Social Development, in agreement with the Honorary National Commission on Disability, shall promote the establishment of full- or part-time residential homes for persons with disabilities whose care cannot be managed by relatives and shall regulate and oversee their operations in coordination with the Ministry of Health.

297. In practice, it is the Social Insurance Bank and the Uruguayan Institute for Children and Adolescents that provide financial support, practical guidance and training in homes and institutions for persons with disabilities.

Access to housing

298. The Social Insurance Bank has a housing solutions programme through which individuals are granted free housing, housing subsidies and rental subsidies. The programme is available to retirees and beneficiaries registered with the Social Insurance Bank (including those who retired because of total incapacity) whose benefits are low and who do not have their own housing.

299. Disabilities are taken into account at the time of registration, selection and distribution. Upon registration, information is gathered for the points system used for allocating housing; persons with disabilities are awarded more points. The most suitable housing solution is sought at the distribution stage. This is possible because the General Technical Guidelines stipulate that 15 per cent of new housing should be designed for users with disabilities.

Article 20: Personal mobility

300. Aspects relating to personal mobility and the greater integration of persons with disabilities are covered in the comments on accessibility under article 9 of the Convention.

301. It should nonetheless be noted that, under Act No. 18471, persons with disabilities who use specially trained animals to get around may enter all places open to the public without restriction and spend time there with the animal. It is the responsibility of the owners or managers of these places to take the necessary steps to comply with the law.

302. The Honorary National Commission on Disability also runs a door-to-door service in Montevideo whereby three adapted vehicles transport users to rehabilitation services, education facilities, their place of employment and leisure activities. Some 1,000 persons use this service every month.

Act No. 13102 and the tax exemption on the purchase of vehicles for persons with disabilities

303. Act No. 13102 of 1962 stipulates that persons with disabilities may directly import any type of special motor vehicle, new or used, any system to adapt it to their use and any auxiliary device to assist with their mobility.

304. The Act sets out a number of conditions for direct imports of such goods: number per person, how the product will be used, transfer of ownership, etc.

305. The benefits under the Act are available only to those importing goods in compliance with the Act and the regulations issued by the Executive, which take into account the severity of the disability, the financial situation of the persons concerned and the importance of having the product imported to assist them in performing their habitual work, in pursuing their education or in taking part in activities aimed at their full rehabilitation.

306. According to file No. 183/2012, the Ministry of Economic Affairs and Finance decided, on the advice of its legal office, to draw up three forms, one for each type of disability (motor impairment, blindness and intellectual impairment). The office recommended that the medical board that assesses all types of disabilities to determine whether Act No. 13102 applies to applicants should be made up of experts in each type of disability. The findings are in line with current disability legislation.

Article 21: Freedom of expression and opinion, and access to information

307. As mentioned previously, Act No. 17378 promotes the establishment of a tertiary-level course in Uruguayan sign-language interpreting, together with the requisite mechanisms.

308. Article 6 of the Act provides that the State should facilitate the access of deaf or hearing-impaired persons to all the technical means needed to improve their quality of life. Article 7 sets forth that all government and municipal institutions or agencies that are open to the public should be equipped with signage, warnings, visual information and illuminated alarm systems designed for deaf and hearing-impaired persons.

Measures taken to urge private entities and mass media to provide their information and services in an accessible form

309. Article 4 stipulates that the State should guarantee that deaf and hearing-impaired persons can exercise their right to information by introducing Uruguayan sign-language interpreting on public interest television programmes, such as news broadcasts, documentaries, educational programmes and public service messages from national and departmental authorities. The use of sign-language interpreters is mandatory on the national television networks.

Official recognition of sign language

310. Article 1 of Act No. 17378 stipulates that: “Uruguayan sign language is recognized for all purposes as the natural language of deaf persons and their communities nationwide. This Act is designed to remove all communication barriers, thereby ensuring equal opportunities for deaf and hearing-impaired persons.”

311. Montevideo City Council has an agreement with a telecommunications firm to introduce sign language and has inaugurated the first information centre for persons with disabilities at the overland transport terminal.

Article 22: Respect for privacy

312. Generic laws on the protection of privacy apply to persons with disabilities and other inhabitants alike. The most recent legislative advance in this respect is the

adoption of Act No. 18311 on the protection of personal data and the remedy of habeas data.

313. Since the protection of personal data is an inherent right, it is covered under article 72 of the Constitution.

314. Article 10 of Act No. 18331 (Principle of data security) reads as follows:

The controller or user of the database shall take all necessary measures to guarantee the security and confidentiality of personal data. The purpose of these measures is to prevent data from being tampered with or lost, or subjected to unauthorized consultation or processing, and to detect any intentional or unintentional diversion of information, irrespective of whether these risks stem from human action or from the technical means used. The data shall be stored in a manner that permits their owner to exercise the right of access. It is prohibited to record personal data in databases that do not meet technical integrity and security requirements.

In addition, article 11 (Principle of confidentiality) stipulates that:

Any physical or moral person who legitimately obtains information from a database where they have had it processed is required to use it in a confidential manner and solely for operations that are normal for that profession or activity; any distribution to third parties is prohibited. Anyone who, by virtue of their occupation or other relationship with a person responsible for a database, has access to personal information, or is involved in any stage of processing such information, is required to maintain strict professional confidentiality in that regard (Criminal Code, art. 302), where the information has been gathered from sources not accessible to the public. This provision shall not apply where there is an order from a competent court in accordance with the relevant legislation, or where the subject gives consent.

315. It should be noted that the Register of Disabled Persons was established under the National Honorary Commission on Disability pursuant to Act No. 16736 of 5 January 1996 (art. 768). Given that the purpose of the register is to allow persons with disabilities to sign up to receive public announcements, it is covered by Act No. 18311 and its confidentiality provisions.

316. The Code of Medical Ethics, adopted on 27 April 1995, also deals with confidentiality:

Article 20: Patients have the right to: (1) Respect for the confidentiality of the consultation. Doctors are required to safeguard this right to the best of their ability; (2) In certain circumstances, non-disclosure of their name, even to the doctor; (3) Respect for the confidentiality of the information which they provide to their doctor and which is recorded in their medical history, unless they give explicit consent to the contrary. Doctors shall respect doctor-patient confidentiality and shall be responsible for ensuring that all the staff involved in the patient's care do so as well. They shall also raise awareness of these matters. Digital registries shall be adequately protected from any access by non-medical staff or staff not bound by doctor-patient confidentiality.

Article 21: Doctor-patient confidentiality shall be maintained even when drawing up medical certificates that may be made public. The attending doctor shall avoid noting a patient's exact illness, diagnostic tests and treatment. It is not ethically permissible for public and private institutions to require doctors to behave otherwise. Doctors shall be released from this responsibility if the patient so requests or gives explicit consent. Certifying doctors shall strictly observe this

article and shall report any institutional pressure to infringe it to the Uruguayan Medical Association.

Article 22: The right to confidentiality does not impose an absolute duty on doctors. In addition to the cases defined in this Act, doctors have a duty to reveal confidential information in situations such as the following: (1) Where there is an imminent threat to the patient's life (e.g. suicide risk); (2) Where the patient systematically refuses to warn innocent persons of a serious risk to their health (e.g. spread of acquired diseases, transmission of hereditary defects); (3) Where there is a threat to the lives of others (risk of committing any form of homicide); (4) Where there is a threat against other fundamental social goods; (5) For the purposes of defending themselves against charges brought by the patient; (6) Doctors shall insist that the courts investigate possible offences themselves, without pressuring doctors to betray their patient's trust.

Article 23: All patients have the right to: (1) Keep their body hidden and emotions private when being interviewed or examined by health professionals. They may, in certain circumstances, receive assistance to speak alone with loved ones or other people who are important to them. Health professionals shall take the necessary measures during all medical acts to protect the patient's modesty and privacy; (2) Receive moral support and request spiritual or religious guidance from the person of their choice. Doctors shall be required to facilitate access to such support.

317. Violations of professional confidentiality are covered under article 302 of the Criminal Code (Disclosure of information subject to professional confidentiality) as follows: "Anyone who, without just cause, reveals confidential information obtained through his or her profession, employment or assignment shall be liable, where the disclosure causes harm, to a fine of 100 to 600 readjustable units."

Article 23: Respect for home and the family

318. Under Uruguayan law, persons with physical disabilities are permitted to marry and have a family on the basis of free consent. Persons with intellectual disabilities, on the other hand, cannot express their will freely, except where the judge involved in the incapacity procedure rules otherwise. Currently, persons falling under the semi-incompetence category may vote, work and express their will, but only after their case has been considered by a judge. The right to marry of persons with intellectual disabilities is restricted by law and in practice.

Measures taken to ensure that no child is separated from her/his parents because of disability

319. Article 10 of the Code on Children and Adolescents (Rights of differently abled children or adolescents) deals specifically with children and adolescents with disabilities and reads:

All children and adolescents with different psychological, physical or sensory abilities are entitled to living conditions that ensure their participation in society, in particular through effective access to education, culture and work.

This right is protected regardless of the age of the person concerned.

320. Furthermore, article 12 (Right to have parents and a family) stipulates that:

The family is the appropriate setting for the fullest attainment of comprehensive protection.

All children and adolescents have the right to live with and be raised by their family and not to be separated from them for financial reasons.

They may only be separated from their family when it is in their best interest and when the authorities, through a formal procedure, decide on a substitute personal relationship.

Where extraordinary circumstances require separation from the family unit, the right of children and adolescents to maintain emotional ties and direct contact with one or both parents shall be observed, except where this would not be in their best interest.

Children or adolescents who have no family have the right to be raised in another family or within a parenting group, to be selected after due account has been taken of their well-being.

Only where this alternative is not available shall placement in a public or private institution be considered. Every effort shall be made to ensure that stays in such institutions are temporary.

Article 24: Education

321. Act No. 18437 (General Education Act) recognizes education as a human right and public good to which all persons living in the country are entitled, irrespective of membership of a particular group. However, the rights of minorities and especially vulnerable groups are guaranteed.

Article 1 (Education as a fundamental right): It is in the public interest to foster the enjoyment and effective exercise of the right to education as a fundamental human right. The State shall ensure and promote good quality education for all inhabitants throughout their lives, by facilitating continuing education.

Article 2 (Education as a public good): The enjoyment and exercise of the right to education is hereby recognized as a public and social good whose purpose is the full physical, psychological, moral, intellectual and social development of all individuals with no discrimination whatsoever.

Article 3 (Purpose of education): The purpose of education shall be to seek a harmonious and full life through work, culture, leisure, healthy living, respect for the environment and the responsible exercise of citizenship as fundamental factors in sustainable development, tolerance, the full observance of human rights, peace and mutual understanding among peoples and nations.

Article 4 (Human rights as a reference point in the exercise of the right to education): The human rights enshrined in the Universal Declaration of Human Rights, the Constitution and all the international instruments ratified by Uruguay shall be fundamental components of education, to be referred to at any time or opportunity in educational services, programmes and actions, and shall constitute a key reference point for education in general and for educators in particular, in every aspect of their professional conduct.

...

Article 8 (Diversity and inclusiveness in education): The State shall safeguard the rights of minorities and especially vulnerable groups with a view to ensuring equal opportunities to fully exercise their right to education and their effective social inclusion. In order to uphold the right to education in practice, educational services shall take into account the varied abilities and individual characteristics of the students so that they may fully develop their potential.

322. The right to education, as a fundamental right of children and adolescents, is also enshrined in article 9 (Fundamental rights) of the Code on Children and Adolescents, which stipulates that: “Every child and adolescent has the intrinsic right to life, dignity, freedom, identity, integrity, image, health, education, recreation, rest, culture, participation, association, the benefits of social security and equal treatment irrespective of his or her gender, religion, ethnicity or social status.”

323. In the specific case of persons with disabilities, irrespective of their age, article 39 of Act No. 18651 establishes that: “The Ministry of Education and Culture, in coordination with the National Public Education Administration, shall provide, on an ongoing basis, the necessary scientific, technical or teaching materials to persons with disabilities of all ages for educational, physical, leisure, cultural and social activities, as well as enable them to fully develop their intellectual, artistic, sporting and social capacities.”

324. Act No. 18651 also contains the following provisions:

Article 40: Ensuring that persons with disabilities enjoy equal opportunities from early education onwards through their inclusion in mainstream classrooms is an acknowledgement of the role of diversity in the learning process and in attaining the objective of universal education with a view to full integration in the community. Access to all levels of the national education system shall be guaranteed, along with the requisite support. In order to ensure inclusion, curricula and evaluation mechanisms shall be made more flexible and facilities and communication more accessible.

Article 41: Persons with disabilities have the right to education, rehabilitation and vocational training with a view to their integration in the labour market.

Article 42: Persons whose circumstances prevent them from beginning or completing compulsory education shall receive training that prepares them for employment suited to their interests, aptitude and capacities. To this end, the Ministry of Education and Culture, in coordination with the National Public Education Administration, shall set up, where applicable, the type and location of vocational training workshops to be staffed by specialized instructors and equipped with the appropriate technology for all educational activities.

Article 43: All persons with disabilities who have successfully completed compulsory education shall have the opportunity to pursue their studies. Existing buildings used for educational purposes shall be retrofitted in accordance with chapter IX of this Act. New buildings being built to house educational institutions must meet the requirements listed chapter IX. Furthermore, they shall be equipped with the necessary technological tools to enable persons with disabilities to pursue their education.

Article 44: The Ministry of Education and Culture, in coordination with the National Public Education Administration, the University of the Republic, tertiary education facilities and private universities, shall, in all programmes and at all levels of vocational training, including tertiary and university courses, promote the inclusion in the ordinary syllabus of information on, training in and the study of disability in relation to the subject matter, as well as the importance of skills acquisition and rehabilitation and the need for prevention.

Article 45: The various institutions and other organized groups shall be encouraged to engage in community awareness-raising and educational activities regarding the significance of, and appropriate attitude towards, the various disabilities, as well as the need for prevention.

Article 46: Leisure, educational, sports, social and cultural centres shall not discriminate and shall facilitate access to and the use of their facilities and services by the persons covered under this Act.

325. The University of the Republic currently provides support to students with hearing impairments by hiring sign-language interpreters to accompany students in need of this service to all activities on their chosen course. This programme is funded by the Student Welfare Office under a framework agreement with the Research and Development Centre for Deaf Persons (CINDE) and the Uruguayan Association of Parents and Friends of Deaf Persons (APASU).

326. Uruguayan sign-language interpreters are increasingly present in classrooms with deaf students at the secondary level: since they were first introduced in 1995 (a first in Latin America), the Alfredo Vázquez Acevedo Institute and, since 2007, schools in the departments of Maldonado, San José and Salto have also begun offering this service. The programme has been driven by the Uruguayan Association of Parents and Friends of Deaf Persons and has garnered prizes at various levels as a model of inclusive education for persons with disabilities.

327. This is a topic that needs to be dealt with and on which work is being actively pursued, given the critical situation, as reported by the Research and Development Centre for Deaf Persons, that over 15,000 deaf persons do not know how to read or write.

University of the Republic

328. The University of the Republic is taking steps in the area of disability rights, at both the central and departmental levels. The most significant actions at the central level concern building infrastructure (Medium- and Long-Term Works Programme) and the promotion of social inclusion through measures by the Disability Network to improve access to education and employment.

329. A series of construction projects have been rolled out across the country since 2009 under the Medium- and Long-Term Works Programme. These projects take into account the need for accessibility of the physical space from the early design stages and, in some specific cases, the principle of convertibility has been incorporated in order to make provision for the possibility of subsequent alterations to buildings where required.

330. Still in connection with the efforts at the central level, the University of the Republic is a member of the Committee on Accessibility of the Physical Environment of the Uruguayan Institute of Technical Standards.

331. The University's systematic efforts to cater for persons with disabilities date from 2008, with an initial study on their educational inclusion. Most university departments had no information on this. Since 2008, the University has been holding regular training and awareness-raising events, discussions and seminars under agreements with national and international organizations. The success of this work led to the establishment in 2012 of a series of workshops on disability issues, which tour the country.

332. The university departments themselves have taken, and continue to take, numerous initiatives, including: the psychological services provided by the Faculty of Psychology; the organization of a number of comprehensive training forums, e.g. on "The social aspects of disability" (Faculty of Social Sciences), "Assistance for persons with disabilities and their families" and "Territorial aspects of disability" (School of Nutrition and Faculty of Psychology); the NEXO 2011 project on the development of

software and hardware for children with cerebral palsy; and projects to make the University's website accessible.

Article 25: Health

333. Act No. 18211 of 5 December 2007 regulates the right of every citizen to health care as set forth in the Constitution, and establishes the National Integrated Health-Care System (SNIS) under the responsibility of the Ministry of Health. The health-care system ensures that all inhabitants have access to comprehensive health services. Article 50 of the Act establishes the principle that users may opt for the health service provider of their choice.

334. Under the Act, the prevention of impairments and disabilities is a guiding principle of the health-care system, and due attention must be paid to this obligation in the area of occupational and industrial safety and social security. The Act establishes "a model of comprehensive care based on a common health strategy, coordinated health policies and comprehensive programmes and action in the areas of health promotion and protection, early diagnosis, timely treatment, and the recovery and rehabilitation of users, including persons in palliative care".

335. Pursuant to article 34 of the Act, the health-care system is divided into levels of care according to the needs of users and the complexity of services. Its main focus and priority is primary health care.

336. In accordance with article 45, the public and private entities comprising the National Integrated Health-Care System must offer users the comprehensive services approved by the Ministry of Health, using either their own resources or those provided by other, totally or partially, public or private providers.

337. The programme of comprehensive services includes:

- (a) Activities to promote and protect people's health;
- (b) Early diagnosis and proper and timely treatment of the illnesses or health problems detected;
- (c) Recovery, rehabilitation and palliative care, where appropriate.

Equal access to health care

338. In accordance with the principle of universality set out in the law establishing the National Integrated Health-Care System, steps have been taken to gradually extend the system to the entire population.

339. Under the current rules, children with disabilities whose parents are covered by the National Health Fund (FONASA), which is funded by the System, are also covered, with no age restrictions.

340. In July 2011, pursuant to Act No. 18731, persons who had retired as a result of total incapacity were incorporated into the National Health Fund with incomes of up to four "benefits and contributions thresholds" (BPCs — one BPC is worth 2,417 Uruguayan pesos, or approximately US\$ 220). Retirees and pensioners will gradually be covered by the Fund depending on their age and income, and should all be included by 2016. Retirees' or pensioners' minor or adult children with disabilities may join the system, for a premium of 1.5 per cent of the beneficiary's income.

341. The Ministry of Health, by Ministerial Order No. 447 of 12 August 2009, introduced mandatory notification and registration of birth defects.

342. With respect to genetic counselling and research into metabolic and other diseases with a view to the prevention of genetic disorders and congenital malformations, the Ministry of Health is working with the Social Insurance Bank and the National Health Fund to develop a package of services related to rare diseases and congenital malformations.

343. Under article 35 of Act No. 18651, the prevention of impairment and disability is a right and a duty of every citizen and society as a whole. It is a priority of the State in the field of public health and is a guiding principle of the National Integrated Health-Care System (article 3 of Act No. 18211 of 5 December 2007). Special attention must be paid to this obligation in the area of occupational and industrial safety and social security.

344. The Act also exempts persons of insufficient means, or the institutions responsible for their care, from all customs duties and other levies on imports of assistive devices such as: hearing, visual and physical prostheses, orthoses, equipment, medicines and other items needed by persons with disabilities for their therapy or rehabilitation; specially designed or adapted equipment, machinery and tools for persons with disabilities; equipment needed to facilitate personal autonomy and for communication, information and signage purposes; as well as special equipment and teaching materials for educational and recreational activities for persons with disabilities.

345. Article 2 of Act No. 18335, on patients and users of health-care services, states that: "Patients and users are entitled to receive equal treatment and shall not be subjected to discrimination on the basis of race, age, sex, religion, nationality, disabilities, social status, sexual preference or orientation, educational level or financial standing." Article 6 states that: "All persons have the right to access comprehensive care, including all services aimed at the promotion, protection, recovery and rehabilitation of health and palliative care, in accordance with the definitions established by the Ministry of Health." Article 7 further elaborates on this right, stating that: "All patients have the right to quality health care provided by health-care workers who have been properly trained and accredited by the competent authorities to carry out their tasks or duties. All patients have the right to access quality medicines that have been approved by the Ministry of Health and included in the pharmacopoeia, and to be informed of their possible side effects. All patients' diagnostic and laboratory tests, as well as the equipment used to carry them out, shall be subject to the relevant quality controls. Moreover, all patients are entitled to access the results upon request."

346. The regulations implementing the law on patients and users of health-care services establish that the patient, or the patient's representative, and the attending health professional must agree on any procedures to be performed, and specifically state that patients must be given relevant, adequate, up-to-date information in language they can understand. Moreover, the patient's medical records must include their informed consent for diagnostic and therapeutic procedures.

347. Furthermore, the decree regulating Act No. 18335 states that health-care facilities must be accessible.

National Neonatal Screening System

348. Newborns in Uruguay are screened for malformations and disabilities regardless of the type of insurance coverage they have. In Uruguay, birth defects are the leading cause of infant mortality, after malnutrition, diarrhoea, and infectious and communicable diseases. When a child has an enzyme deficiency that cannot be otherwise detected, this early screening may prevent severe and irreversible damage.

Pursuant to executive decrees Nos. 416/007 and 389/008, newborns in Uruguay are screened for congenital hypothyroidism, phenylketonuria, congenital adrenal hyperplasia, cystic fibrosis and growths.

349. The screening is defined as “extensive testing of all newborns to identify those at risk of being affected by diseases. Once the diseases have been detected, confirmatory testing and clinical and biochemical diagnosis are required”.

350. The various bodies working within the National Integrated Health-Care System have specific mandates with regard to congenital and degenerative disease prevention. The Ministry of Health is responsible for enforcing mandatory screening for certain diseases, while the Social Insurance Bank provides the laboratory, personnel, input and multidisciplinary teams needed to treat the pathologies detected. In 2010, the Social Insurance Bank received the Queen Sofia Award for Disability Prevention from the Spanish Royal Foundation for Disability; the award is worth €50,000, which will be used to add a molecular biology unit to the Neonatal Screening Laboratory. The unit will be able to identify the genetic mutations detected in children. The Honorary Commission for the Control of Tuberculosis and Common Diseases reports outbreaks and recurrences and monitors follow-up. The National Postal Administration is responsible for shipping samples throughout the country.

351. The Social Insurance Bank, in coordination with health centres nationwide, establishes the diagnosis and provides comprehensive assistance (tests for physicians, dietary treatment and/or medication) in relation to the pathology detected by the neonatal screening, maintaining a two-way dialogue with the primary-care paediatrician. All children are screened, regardless of whether they are covered by the Social Insurance Bank and irrespective of their health-care provider.

Article 26: Habilitation and rehabilitation

352. In the field of health, during the acute and sub-acute stages of disease or injury, physiatric, psychiatric and physiotherapeutic medical services, as well as secondary preventive measures, are provided in hospital, ranging from intensive care to moderate care, followed by home care and outpatient services in urban areas and some suburbs. Most of these services are provided by the National Integrated Health-Care System.

353. There is clearly a lack of adequate care, programmes and protocols for persons with chronic disabilities.

354. The National Integrated Health-Care System includes public care-providers (the State Health Services Administration, the teaching hospital at the University of the Republic, the military and police health services, etc.). These public providers comprise the Integrated Network of Public Health-Care Providers and provide services to 45 per cent of the population, while the remaining 55 per cent are covered by private providers (health-care cooperatives and mutual societies), which are non-profit institutions.

355. The comprehensive health-care programmes list the services to be provided under the National Integrated Health-Care System. With regard to training and rehabilitation, there is a serious gap that will need to be explicitly addressed in forthcoming decrees (basic care programmes and protocols, provision of orthoses, prostheses, assistive devices and assistive technologies, etc.).

356. With respect to more serious neuro-musculo-skeletal disorders, multidisciplinary intervention for ongoing, timely rehabilitation is not widely available in the health-care network. Treatment is fragmented, delayed and unpredictable, and its impact is not assessed. There is a shortage of adequate health-related rehabilitation services,

particularly away from the capital. However, there are some well-developed services, such as the Physical Rehabilitation Centre in Maldonado (for adults and children) and other less developed services in other departments (such as Artigas, Paysandú and Tacuarembó) that are run by NGOs.

357. In Montevideo, there are public services that offer multidisciplinary rehabilitation for adults at the Casa de Gardel centre of the State Health Services Administration (for outpatients) and the university teaching hospital (for inpatients and outpatients). There is no network of medical rehabilitation services, which would allow for continuous primary, secondary and tertiary care. Coordination and collaboration among providers working for the national health-care system is slowly improving, but areas of overlap and poor coverage persist due to poor coordination of resources.

358. There is an outpatient rehabilitation centre for children, which is run by a foundation and funded primarily by annual televised fundraising drives known as Child Rehabilitation Centre telethons. The centre has a multidisciplinary team, well-developed protocols and impact assessments and provides, *inter alia*, third-level assistive devices. There is a centre in Montevideo, and a second centre was recently opened in the city of Fray Bentos to cover the northern part of the country.

359. At this time, the country does not have a tertiary rehabilitation centre that can treat adults with complex neuro-musculo-skeletal disorders. The Centro Tiburcio Cachón offers comprehensive rehabilitation services for persons with visual impairments to help them achieve autonomy and provides visual aids and canes to those who need them. In coordination with the Instituto Artigas, basic functional rehabilitation units are being set up in the departments of Artigas, Salto, Paysandú, Rivera, Tacuarembó, Lavalleja, Maldonado and San José. There should be a unit in every department by 2014. These centres and facilities fall within the remit of the National Disability Programme.

360. The Honorary Commission of the Mental Health Foundation is a public body governed by private law that includes representatives of the Ministry of Health; it is responsible by law for mental health matters. It offers its own mental health rehabilitation services and coordinates these with those of the State Health Services Administration (National Centre for Psychological Rehabilitation, Vilardebó Hospital and the Santín Carlos Rossi project). Psychological rehabilitation services are available in the Administration's centres in every department.

361. For the rural population (which represents 14 per cent of the total population), rehabilitation is often sporadic or inadequate. Networks of primary and secondary care need to be improved to address the needs of persons with disabilities, and the three levels of care need to be clearly delineated to ensure continuity of care.

362. The mandate of the recently established Rural Health-Care Programme is to implement measures, particularly with regard to training for health-care personnel, that will facilitate detection, primary interventions and referral to more specialized services where necessary. At this level, it is vital to coordinate the various health services and programmes provided by the Social Insurance Bank, the Ministry of Social Development, the State Insurance Bank and local actors (municipal bodies, NGOs, departmental commissions on disability).

Special assistance

363. The Social Insurance Bank offers financial assistance for the rehabilitation and/or re-education of persons with neuro-psychological developmental disorders and persons with disabilities. Such assistance is given to persons who receive family allowances for dependent children or minors (pursuant to Act No. 18048), recipients

of a disability pension and patients of the Department of Medical and Surgical Specialties. These payments are intended to offset the costs of attending special schools, rehabilitation institutes, schools and institutes accredited by the National Public Education Administration that support integration, or recreational or sports institutions whose activities foster rehabilitation. The payments also cover the cost of transporting persons with disabilities and the persons accompanying them to and from the relevant institutions.

364. According to data provided by the Social Insurance Bank in July 2011, 15,888 people have benefited from this scheme, and a total of 486,832,656 Uruguayan pesos (approximately US\$ 25 million) has been paid out in special assistance.

Health-care vouchers

365. Patients of the Department of Medical and Surgical Specialties are not only eligible for health care provided by the Social Insurance Bank and for special assistance, but also, depending on their condition at birth, for “external work vouchers” (*órdenes de trabajos externos*) which entitle them to various types of service: treatment by specialists in other health centres, patient transfers, travel and accommodation for themselves and family members, prostheses and orthoses such as glasses, hearing aids and wheelchairs, and even the correction or stabilization of their pathology with a view to their subsequent social inclusion.

366. In 2011, 28,798 interdepartmental transfer requests were granted for 6,814 beneficiaries. Almost 41,747,686 Uruguayan pesos (approximately US\$ 2,160,000) were spent on 6,874 transfers by ambulance or special vehicle. In the same year, a total of 7,988,942 Uruguayan pesos (approximately US\$ 414,000) was spent on 19,033 overnight stays. A smaller sum was spent on food for patients and their family members when meals were not provided by the health-care centres or hotels. In 2011, 2,026,660 Uruguayan pesos (approximately US\$ 104,900) were spent on meals for 32,565 beneficiaries.

Assistive devices

367. Assistive devices are “instruments that facilitate the independence of individuals and personal development”. Support products (including software) are classified according to their function. They are defined as any product (including devices, equipment, instruments, technology and software) that is custom-made or available off-the-shelf to prevent, offset, control, mitigate or neutralize impairments, activity limitations and participation restrictions.

Social Insurance Bank

368. The Social Insurance Bank has approved a draft agreement with the Ibero-American Social Security Organization on training activities that promote personal autonomy, accessibility and the use of assistive devices for older persons, persons with disabilities and persons who are temporarily or permanently in a state of dependency.

369. In 2011, 54 prostheses, 1,281 orthoses and 1,804 pairs of glasses were provided, at a cost of 20,732,055 Uruguayan pesos (approximately US\$ 1 million).

National Disability Programme

370. Between January 2012 and the time of writing, the National Disability Programme issued 212 lower-limb prostheses and repaired 167 prostheses and 14 splints in its Orthopaedic Technology Laboratory. It also distributed 152 wheelchairs and 160 orthoses. It was able to do all of this with a budget of 6 million Uruguayan pesos (approximately US\$ 300,000).

Medical and surgical specialties

371. The Social Insurance Bank, through the Department of Medical and Surgical Specialties, provides special services for beneficiaries with congenital malformations or potential perinatal pathologies. Since the establishment of the National Integrated Health-Care System, the Social Insurance Bank has been providing services to children in situations that their health-care providers are not required to cover.

372. In 2011, 48,341 such consultations were covered in 19 different specialties.

373. As for the medical services provided by the Social Insurance Bank in 2011, 26,959,067 Uruguayan pesos (approximately US\$ 1,400,000) were spent on 64,505 medical procedures, clinical analyses and dental procedures.

374. The National Centre for Psychological Rehabilitation, a public, non-hospital centre for psychosocial rehabilitation, works with persons with long-standing mental illnesses. It offers services in the fields of psychology, psychiatry, social services and occupational therapy to persons over the age of 15. The centre does not treat disabilities such as mental retardation, antisocial personality disorders or disorders that are primarily based on substance abuse. A referral from a psychiatrist and a State Health Services Administration card are required for admission.

375. There are also departmental rehabilitation programmes for persons over the age of 18. The goal of such programmes is to protect persons who are mentally ill at every stage of their treatment, both in and out of hospital. They hold workshops and provide rehabilitation, counselling, and support for family members.

376. The Mental Health Foundation has a national register of people with mental retardation and other impediments. A person must be on the register to benefit from the double allowance.

377. "Operation Miracle" was conducted within this framework; at the time of writing it had organized 24,827 successful eye operations, according to the Ministry of Health.

378. The National Disability Programme provides visual rehabilitation services at a visual rehabilitation centre (Tiburcio Cachón) and at visual rehabilitation units located in the departments of Tacuarembó, Maldonado, Soriano and Durazno (and soon also in Artigas, Salto, Paysandú and Rivera). This service is available to any person in need, although patients are generally over the age of 12. There are also physical rehabilitation centres in various parts of the country, which operate with private funding or under agreements with the State.

Older persons

379. The State Health Services Administration has the Doctor Piñeyro del Campo Hospital for Geriatrics, which provides services to people over the age of 60 who may be highly dependent, self-reliant, lucid or suffering from a psychiatric illness. This hospital also functions as a day centre and offers services for a medium-sized catchment area.

380. In addition to the information that has already been provided on the sexual and reproductive rights of people in general and persons with disabilities in particular, it should be noted that guidelines on sexual and reproductive health services for persons with disabilities are currently being drafted. While the manual is being drafted, the staff members in such centres are being trained by qualified staff of the National Disability Programme, Montevideo City Council and the United Nations.

National Resource Fund

381. The National Resource Fund is a non-State public corporation that provides highly specialized medical technologies, as well as certain prostheses included on its list of services, for all users of the National Integrated Health-Care System free of charge.

Support for hippotherapy

382. The decrees of 1 July 2003, 27 August 2007 and 13 October 2008 define hippotherapy as a form of biological, psychological and social rehabilitation for persons with disabilities, and National Equine-Assisted Rehabilitation Centres are being established throughout the country. The Social Insurance Bank provides financial support and supports activities in the Montevideo, Paysandú and Colonia centres, with civil associations and the National Army.

Shortfalls in certain specialties

383. According to the Ministry of Health, there are not enough people studying medicine, physiatry, psychiatry, physiotherapy or nursing at the Faculty of Medicine of the University of the Republic to meet the country's needs.

384. The biggest shortfall is in the field of occupational therapy, where a recently created course has so far produced only a small number of graduates. There is also a shortage of graduates in audiology and speech pathology, psychomotor therapy and, particularly outside the capital, in psychology and social work.

385. Furthermore, there is no course of study for orthotists or prosthetists.

386. Under the auspices of the Ministry of Health, the Human Resources Observatory has been established, with the participation of public and private training entities, in order to gather the information needed to draw up a policy and plan that will ensure there are sufficient, highly trained human resources to meet the current and future needs of the country. The lack of information and shortage of human resources is one of the most pressing problems holding back the development of the health-care system. Any future national plan on the training of human resources in the field of health must take into account the fact that rehabilitation is a critical area and one in which there is a shortage of trained staff.

Absence of standardized criteria for certifying disability in Uruguay

387. Although the law and the Convention clearly define who should be included in this group, different bodies in Uruguay use different systems of certification.

388. This has an impact on the formulation of targeted needs-based policies, as well as on the design of an information system that could offer feedback on policies that have been implemented and could therefore be used for monitoring purposes.

Article 27: Work and employment

389. Pursuant to Act No. 18651, occupational and vocational guidance and rehabilitation services must be provided to all persons with disabilities in accordance with their aptitudes, possibilities and needs, and measures should be taken to enable them to engage in a remunerated activity. Under the Act, the implementing regulations should specify the requirements for gaining access to different levels of training.

390. Article 49 of the Act stipulates that the State, departmental authorities, autonomous entities, decentralized services and non-State public corporations must fill

a minimum of 4 per cent of their vacancies with persons with disabilities who meet the requirements for the posts in question. Persons with disabilities who are employed in this way shall be bound by the same obligations as are applicable under labour legislation to all public officials, without prejudice to the application of differentiated rules where strictly necessary.

391. The aforementioned obligation refers to the minimum quantity of jobs and positions for which staff are hired, but it may also be applicable to the amount of the budgetary appropriation corresponding thereto if it is more favourable for the persons protected by the Act.

392. In the former case, the 4 per cent of vacancies to be filled by persons with disabilities shall be calculated in relation to the total amount of vacancies occurring in the different servicing units and sections and at the different levels of each of the bodies referred to in the first paragraph of article 49. Where the application of this percentage produces a figure that is less than a unit, but equal to or greater than half thereof, it shall be rounded up to the larger quantity.

393. The Court of Audit, the National Audit Office and the Planning and Budget Office are responsible for sending the National Office of the Civil Service information from their records on the number of vacancies posted in the bodies and entities referred to in the first paragraph of this article.

394. The National Office of the Civil Service requests reports every four months from the relevant bodies and entities, as well as from the relevant non-State public corporations, on the number of vacancies that they have posted and filled during the year. These bodies must also indicate the number of persons with disabilities hired, along with their disability and their position. The National Office of the Civil Service, within the first 90 days of each year, must inform the General Assembly of the legislature about the content of the collected reports, including the mandatory reports of the Court of Audit, the National Audit Office and the Planning and Budget Office. It reports the total number of vacancies posted for each of the relevant bodies, the number of persons with disabilities hired by each body, with details of their disability and positions, and also indicates which bodies have not complied with article 768 of Act No. 16736. Persons with a disability — as defined in article 2 of the Act — who wish to benefit from the provisions of this Act, must be on the Register of Persons with Disabilities kept by the Honorary National Commission on Disability (Act No. 16736, art. 768).

395. The Ministry of Social Development, in coordination with the Ministry of Health, must certify the disability. The evaluation is carried out by a panel comprising at least one physician, one psychologist and one social worker, with demonstrated expertise in their respective field. The panel's report must state the person's disability and expressly indicate which tasks the person can perform, as well as the tasks that he or she cannot perform. The certificate must specify whether the disability is permanent and the period for which the certificate is valid. When the certificate expires, another evaluation must be carried out. For the purpose of issuing the certificate, the Ministry of Social Development, in coordination with the Ministry of Health, may require the physicians and institutions treating persons with disabilities to supply reports, tests and medical records. The professionals who issue the certificates, as well as those treating the persons with disabilities, must exercise due diligence. Should it be found that the information provided does not correspond to reality, they will be held civilly, criminally or administratively liable, as appropriate.

396. Article 50 states as follows:

When a vacancy is abolished in State institutions, autonomous bodies, decentralized services or departmental authorities, 4 per cent of the credit shall

be transferred to a single object of expenditure for the sole purpose of reinstating posts or functions designated for persons with disabilities. The head of the relevant section, body or entity shall advise the Executive — subject to the prior approval of the National Office of the Civil Service and the National Audit Office — to reinstate the designated posts or functions referred to in the first clause of this article, and to transfer the respective existing credits to the object of the expenditure at the level of the programme and implementing unit. The National Audit Office, in coordination with the National Office of the Civil Service, shall oversee the fulfilment of this obligation, and the process of reinstating such posts and functions shall not exceed 180 days. The period shall run from the abolition of the vacancy. The above provisions shall apply, where appropriate, to non-State public corporations.

397. Article 51 states as follows:

With a view to fulfilling the obligation set forth in articles 49 and 50 of this law:

(a) All cases, regardless of the circumstances in which they arise, in which functional ties have been definitively ended shall be considered vacancies. This provision does not apply to the cases described in articles 32, 723, 724 and 727 of Act No. 16736 of 5 January 1996, or to military grade K, police grade L, teaching grades G, H and J, or Foreign Service grade M positions;

(b) The heads of the relevant bodies shall be held responsible for any failure to fill vacancies in the manner set forth in the first paragraph of article 49 of this law and may be removed from office and dismissed on grounds of omission, in accordance with the procedures set forth in the Constitution of the Republic and the relevant laws and regulations. This provision shall apply to persons representing the State on the governing bodies of non-State public corporations;

(c) The Director of the National Office of the Civil Service shall be liable for any instance of non-compliance by auditors assigned to the Office, and may be removed from office and dismissed on grounds of omission, in accordance with the procedures set forth in the Constitution of the Republic and the relevant laws and regulations;

(d) The National Office of the Civil Service must draft regulations for this law within 60 days of its enactment and submit these to the Executive, which shall have 30 days to approve them. The regulations shall establish the procedure for filling vacancies, job requirements and disciplinary procedures for anyone who violates the regulations. They shall also establish that any failure to comply with the law shall be punishable with removal from office and dismissal;

(e) The legislature, the judiciary, the Court of Audit, the Electoral Court, the Administrative Court, the departmental authorities, autonomous bodies, decentralized services and non-State public corporations must issue their implementing regulations in respect of this law within 60 days, counted from the day following the adoption of the law by the Executive, and shall send the adopted regulations to the National Office of the Civil Service for information purposes;

(f) When filling vacancies, the bodies referred to in paragraph (e) must establish clear job descriptions and profiles and send this information to the Honorary National Commission on Disability. The Commission shall examine the information and has 60 days to advise the body on appropriate measures in all areas mentioned in the information provided and to propose any adjustments that it deems necessary for testing in the event of a competitive selection

process. The body concerned must take the recommendations of the Honorary National Commission on Disability into account in each call for candidates;

(g) The relevant body, in coordination with the Honorary National Commission on Disability, must disseminate the call for candidates as widely as possible;

(h) A mechanism must be established in each public body to oversee the facilities provided for employees with disabilities, such as the necessary adjustments to enable them to perform their functions properly, and the elimination of physical barriers and a social environment that might be conducive to discriminatory attitudes;

(i) The National Office of the Civil Service shall provide instructions and guidelines with a view to the effective implementation of this article.

398. In addition, article 52 and subsequent articles provide as follows:

Article 52. Where a person performs the functions of a public official on a permanent basis under an employment contract, and where certain basic components of that person's initial relationship with the State, departmental authorities, autonomous entities or decentralized services have been impaired and he or she is certified as having a disability in accordance with the provisions of article 49 of this law, the Administration is required to set aside the requisite budgetary allocation, provided that the degree of disability so permits.

For this purpose, efforts must be made to adapt the person's workplace to his or her disability or, where this is not possible for a good reason, to reassign the person to some other suitable position.

The second paragraph of this article applies to persons with a civil service contract who develop a disability.

Such persons may choose to forgo this benefit and may opt, in certain cases authorized by other rules, for a retirement package or, in the event of a causal link, the appropriate pension.

Article 53. The bodies listed in article 49 of this law, shall prioritize, all else being equal, the acquisition of supplies and provisions from companies duly certified as hiring persons with disabilities, in accordance with the regulations.

Article 54. When granting the use of public or private property of the State or departmental authorities to small commercial enterprises or service providers, priority shall be given to persons with disabilities who are able to undertake such activities in accordance with the established requirements. Any lease or permit shall be declared null and void if the priority referred to in the first paragraph of this article has not been observed.

Article 55. In the event that State entities are totally or partially privatized or that services provided by them are outsourced, the terms and conditions shall include provisions to safeguard the preferences and benefits established by this law.

...

Article 60. The regulations shall establish the necessary resources to supplement the protection provided to persons with disabilities in the rehabilitation process. This protection shall include:

(a) Resources and measures to facilitate or safeguard the performance of their tasks, as well as adaptation of their posts to allow them to continue working;

(b) Support or direct contributions for the organization of sheltered workshops;

(c) Loans to enable such persons to become self-employed.

Article 61. Any worker who has or adopts a child with Down syndrome, cerebral palsy or other severe sensory, physical or intellectual disability shall be entitled, for the period when the child is in their care, to request special leave without pay for a period of six months, in addition to the corresponding maternity or paternity leave. The employer must be notified of such circumstances within 10 days of verification of the birth or adoption and such notification shall be accompanied by a medical certificate attesting to the condition.

Article 62. In the event that the mother or father cannot care for the child, the leave provided for in article 61 of this law may be requested by the person who cares for the child.

Article 63. The option of working part-time shall be made available in the public and private sector for persons with disabilities who are unable to work full-time, depending on the individual's capacity.

National Office of the Civil Service

399. In accordance with paragraph 5 of the aforementioned article 49, the National Office of the Civil Service conducts a survey on a quarterly basis and produces an annual report on the recruitment of persons with disabilities by the State, including both the civil service and non-State public corporations. The 2010 report included a special chapter on best practice in the recruitment of persons with disabilities to the civil service.

400. Pursuant to the provisions contained in the aforementioned paragraph, these institutions must submit information to the National Office of the Civil Service on the number of posts that have become vacant and been filled in each agency during the course of the year, as well as the budget allocated for the positions. They must also provide data on the number of persons with disabilities who have been recruited, disaggregated by disability type and position occupied.

401. Pursuant to article 2 of Decree No. 205/007, vacant posts refer to budgeted positions, with the exception of posts that must be filled through promotion, and include positions up to the highest pay grade. This does not include vacancies arising from the provisions of articles 32, 723, 724 and 727 of Act No.16736 of 5 January 1996 or military grade K, police grade L, teaching grades G, H and J, or Foreign Service grade M positions.

402. The Court of Audit, the National Audit Office and the Planning and Budget Office are obliged by law to provide information to the National Office of the Civil Service about vacancies in agencies that they audit, as well as data on their own respective workforces.

403. The last report of the National Office of the Civil Service, covering the period of January to December 2011, concluded that the 4 per cent target for posts had not been met. In 2011, 41 persons with disabilities were recruited by the State, which is significantly fewer than the 252 persons required to meet the quota established by law, accounting for only 0.64 per cent of the total. Only four bodies hired persons with disabilities for at least 4 per cent of vacancies, namely, the National Bank, the Mortgage Bank, the National Ports Authority and the Retirement and Pension Fund.

Montevideo

404. Montevideo City Council runs a training and employment programme which is managed under agreements with civil society organizations. The Council is the only institution in Uruguay that has met the target of hiring persons with disabilities for 4 per cent of vacancies since the 1990s. Some 120 persons with disabilities are currently employed by the Council.

Rivera

405. The local authorities of the department of Rivera also comply with the provisions of Act No. 16095, having met the quota of allocating 4 per cent of jobs in the departmental workforce to persons with disabilities.

Maldonado

406 Maldonado City Council is conducting a voluntary internal survey of staff members with disabilities in order to implement the provisions of Act No. 18651 on record-keeping for the Honorary National Commission on Disability. Moreover, every year it has 15 places reserved for persons with disabilities under the “Days of Solidarity” employment programme and an additional 15 under the “Summer Childcare Centre” employment programme.

407. In terms of vocational training, special telecommuting training has been provided to 15 persons with motor disabilities, robotics training to 8 young persons with Down syndrome, and 8 scholarships to persons with motor disabilities to allow them to study software management at private local institutions.

Vocational Training Programme for Persons with Disabilities

408. The Vocational Training Programme for Persons with Disabilities (PROCLADIS) is designed to promote the social inclusion of persons with disabilities by helping to establish their identity as workers. The participants are persons with disabilities (all categories of disability) who are over 18 years of age, autonomous and capable of joining the open labour market.

409. Persons in receipt of a disability pension or transitional allowances paid by the Social Insurance Bank can attend courses and work legally without losing their benefits. Priority is given to those persons who are in vulnerable social or employment situations. The programme provides nationwide coverage and assists persons with disabilities in urban and rural areas to find conventional work, with the same rights and obligations as any other worker.

410. The Vocational Training Programme for Persons with Disabilities has three categories of training courses:

- *Vocational*: Courses for persons with disabilities only, with a commitment to finding jobs for 30 per cent of the persons accepted for the course;
- *Employability*: Courses for persons with disabilities only. Finding employment is the individual’s responsibility. The courses seek to increase participants’ employability;
- *Inclusive*: Courses for persons with or without disabilities, in both urban and rural areas. The inclusive courses are available to persons from other programmes of the National Institute of Employment and Vocational Training, such as the Pro-Youth, Rural Workers, Unemployed Persons and Pro-Women programmes.

Ministry of Labour and Social Security

411. In respect of working conditions for persons with any type of disability, the Inspectorate-General of Labour and Social Security is responsible for monitoring compliance with the regulations in force. The Inspectorate focuses on the application in practice of the principle of equality of working conditions. To that end, it monitors or investigates compliance with the regulations governing the working environment and labour conditions, which are designed to ensure decent, well-paid and safe employment.

412. The investigation takes the form of an inspection, during which the labour inspector prepares a record of any irregularities detected. The record is used to initiate an administrative procedure that may result, where the existence of discrimination is proved, in the imposition of a fine on the company concerned.

413. Where a person with a disability is subjected to some form of discrimination, he or she should file a complaint for discrimination with the Inspectorate-General for Labour. The complainant should submit the complaint in writing, stating the grounds that warrant an inspection.

414. The general guarantees applicable to all complaints are applied. The Legal Division studies the points made and may request the company to describe the circumstances and measures taken in that regard. It may also order an inspection to corroborate the circumstances and the claims of the parties. The procedure conducted by the Inspectorate-General complies with the guarantees of due process. It holds hearings to take evidence and adopts any other measures deemed necessary to resolve the situation. Where the facts complained of are substantiated, the procedure may entail the imposition of a fine on the offender.

Public Employment Service, National Employment Directorate

415. Act No. 17930 assigns to the National Employment Directorate the task of “administering a national public employment service at the local level that provides the necessary support to unemployed people with a view to promoting their integration into the labour market on a dependent or independent basis”.

416. Since 2005, the National Employment Directorate has been providing employment guidance and placement services and referring job-seekers to productive enterprises for occupational training and support through public employment centres. There are currently 26 such centres providing nationwide coverage. Staff at the centres are trained to help different population groups, and to pay special attention to persons with disabilities. For instance, training sessions have been organized to raise awareness and/or offer advice on dealing with persons with disabilities and on how to approach employment guidance interviews, etc.

417. Mention should be made of the *Ágora* regional project designed to provide training and employment opportunities for blind and visually impaired people. It is financed by the ONCE Foundation for Latin America and implemented by the National Union of Blind Persons of Uruguay and the Ministry of Labour and Social Security.

Article 28: Adequate standard of living and social protection**Financial benefits**

418. The Uruguayan Government provides financial benefits in the form of pensions to persons with disabilities through the Social Insurance Bank in accordance with the

classification and conditions set out in the existing legal framework, as described below. The Social Insurance Bank allocates over US\$ 500 million of its annual budget to these payments and to providing support to institutions, for the benefit of more than 150,000 persons.

Retirement on grounds of total incapacity

419. Act No. 18395 of 24 October 2008 amended the conditions of eligibility for retirement in cases of a complete and permanent incapacity to do work of any kind. The requirement to have worked a minimum of six months immediately prior to incapacity has been revoked. The requirement that the complete and permanent incapacity for work of any kind must have taken effect within two years of the cessation of work or the expiry of unemployment benefits has also been revoked. These amendments have expanded the social security coverage available in cases of total incapacity to work.

420. The allowance for total incapacity is equivalent to 65 per cent of the basic retirement benefit. This, in turn, is the adjusted average of the recorded pensionable remuneration of the last 10 years, though it cannot be higher than the average of the best 20 years of adjusted pensionable remuneration, increased by 5 per cent. Where more favourable to the beneficiary, the basic retirement benefit is the average of the best 20 years of adjusted pensionable remuneration.

421. Those covered by the mixed pension scheme — which provides benefits through a combined regime of solidarity (redistribution) and mandatory personal savings (capitalization) — receive the benefit calculated in the above way topped up by an amount paid by the insurer equivalent to 45 per cent of the average monthly adjusted pensionable remuneration on which their contribution to the capitalization pillar was based.

422. The minimum pension, including the pension for total incapacity, has been gradually increased in an effort to ensure it is adequate. The latest increase, set out in Executive Decree No. 189/012 of 8 June 2012, raised the minimum pension to the equivalent of 2.25 “benefits and contributions units” (BPCs — one BPC is worth 2,417 Uruguayan pesos, or approximately US\$ 220).

423. As in the case of other retirement benefits, pensions for total incapacity have seen an increase in their real value since 2005.

424. Under this regime, a total of 47,319 persons in 2011 received pensions totalling 4,616,409,084 Uruguayan pesos (approximately US\$ 239 million).

Transitional allowance for partial incapacity

425. Act No. 18395 also amended some of the conditions of eligibility for the transitional allowance paid in the event of partial incapacity. This allowance is payable when the onset of complete and permanent unfitness for the person’s usual employment or work occurs during periods of employment or paid leave, whatever the cause.

426. The amount of this allowance depends on the beneficiary’s remaining capacity and age, and is payable for a maximum period of three years. If within this period the beneficiary becomes completely and permanently unfit for work of any kind, the conditions will have been met for retirement on the grounds of total incapacity. In 2011, 3,224 persons were in receipt of this benefit, at an annual cost of 229,786,976 Uruguayan pesos (approximately US\$ 11.9 million).

Non-contributory pensions for ordinary and severe disability

427. These non-contributory benefits are governed by Act No. 16713. Uruguayan residents who lack the resources to meet their basic needs and who meet the criteria are eligible for old-age and disability pensions. The beneficiary must be completely unfit for any kind of paid work or have a disability as defined on the established disability scale in order to qualify for the disability pension. However, this does not preclude persons in the latter case from undertaking paid work (Act No. 17266 of 22 September 2000).

428. This benefit was paid to 61,984 persons in 2011, at an annual cost of 3,496,750,872 Uruguayan pesos (approximately US\$ 181 million).

Food basket programme

429. In partnership with the National Food Institute, the Social Insurance Bank paid for food baskets for 61,984 persons via cash transfers in 2011.

Survivors' pensions for parents and children with disabilities

430. Pursuant to article 25 of Act No. 16713, survivors' pensions are payable to: (a) widowed persons; (b) unmarried adult children who are completely unfit for any type of work and children under 21 years of age, except those who are over 18 and have their own source of income; (c) parents who are completely unfit for any type of work; (d) divorced persons; (e) cohabiting partners who at the time of death had lived in a de facto union with the deceased for an uninterrupted period of at least five years.

431. In 2011, survivors' pensions were paid to 20,262 persons.

Life annuities for rural workers (no longer issued, but continue to benefit hundreds of people)

432. As at December 2011, 796 pensions totalling 26,922,804 Uruguayan pesos (approximately US\$ 1,390,000) were paid out under this scheme. The beneficiaries were dependent rural workers who had been rendered completely or partially unfit for any kind of work as a result of an accident at work or an occupational disease. The family members of workers who died in work-related accidents were also beneficiaries. The regulation establishing this regime was repealed in 1986.

Life annuity for occupational injury or disease

433. Under Act No. 16074 of 10 October 1989, workers who suffer an accident at work or an occupational disease that permanently limits their capacity to work are entitled to receive a life annuity that is calculated on the basis of the reduction in their capacity to work and their salary at the time of the accident. In the event that the person incapacitated by the extent of their injuries cannot survive without permanent support, the life annuity increases to 115 per cent of their salary.

434. The list of occupational diseases has been expanded by Executive Decree No. 210/11 to include nearly all those listed by the Governing Body of the International Labour Organization.

435. Life annuities for occupational injury or disease are adjusted on the basis of the average salary index — in a similar fashion to pensions and benefits — and have risen steadily in real terms since 2005.

Family allowance scheme (Act No. 15084)

436. Children with disabilities have the right to a double, lifelong family allowance.

437. Family allowances are benefits for persons in work, as provided for in Act No. 15084 of 1980. The family allowance scheme is intended to help working parents look after children in their care and to contribute to the children's all-around development. The beneficiaries are children and young persons in the care of private-sector employees, unemployed persons, domestic workers, news-vendors, small-scale farmers and private-sector retirees and pensioners. The Act also covers pregnant women so that they can have regular medical check-ups during pregnancy.

438. Children with disabilities are entitled to the allowance for life, unless they receive a disability pension, in which case the benefit will be paid until they reach the age of 18 provided that they are studying.

439. The allowance comprises monetary and non-monetary benefits. Beneficiaries of family allowances with congenital malformations or pathologies arising from complications at birth are entitled to special assistance provided by the Department of Medical and Surgical Specialties. Medical examinations and medicines, as well as any necessary equipment or prostheses, are provided free of charge. When a patient has to travel to Montevideo for treatment, the transport, meals and accommodation are free of charge for both the patient and the person accompanying him or her.

440. In 2011, family allowances totalling 7,712,189 Uruguayan pesos (approximately US\$ 399,000) were granted to 875 children with disabilities pursuant to Act No. 15084.

Family allowances under the Equity Plan (Act No. 18277)

441. This allowance is payable for children with disabilities up to the age of 18 and is renewable for periods of three years, subject to a medical examination at the end of each period.

442. The Social Insurance Bank is responsible for making payments under the new family allowance scheme contained in the Government's Equity Plan. These benefits are a form of welfare and are therefore non-contributory and paid monthly. Beneficiaries include children and adolescents from socioeconomically vulnerable households; those in full-time care in institutions run by the Uruguayan Institute for Children and Adolescents or in institutions recognized by the Institute; and those suffering from a physical or mental disability that prevents them from undertaking any kind of paid work. In these cases, the benefit is payable until the age of 18 provided that the individual continues studying.

443. In 2011, family allowances totalling 151,617,178 Uruguayan pesos (approximately US\$ 7,850,000) were granted to 10,454 children with disabilities pursuant to Act No. 18227.

Article 29: Participation in political and public life

444. As previously mentioned, article 80 of the Constitution restricts the right to citizenship: "Citizenship shall be suspended: (1) For reasons of physical or mental incompetence that prevents its free and reasoned exercise."

445. However, it should be noted that the implementation of this article is not automatic, as demonstrated by the example of Uruguayan jurisprudence mentioned above. As previously mentioned, that ruling was groundbreaking. It set a precedent and marked a watershed for many people. The ruling takes on further importance if one considers that both total and partial interdiction affect the right to freedom as set forth in the Constitution, which lends even greater weight to this judicial precedent.

446. This is the only higher rule of law that in any way limits participation in political and public life.

Civil Society Capacity-Building Programme

447. The Civil Society Capacity-Building Programme provides social benefits for organizations that help persons with disabilities. Its main objectives are to promote the development of civil society organizations in an effort to improve the quality of life of persons with disabilities and to strengthen the capacity of organizations affiliated to the Social Insurance Bank's social programmes.

448. By the end of 2011, 171 organizations for persons with disabilities were members of the National Register of Institutions under agreements with the Social Insurance Bank. They receive social benefits in the form of financial assistance. This assistance consists of non-refundable payments subject to certain requirements, procedures and checks, depending on the intended use. Of the 28,184,951 Uruguayan pesos granted by way of financial support to civil society organizations, 2,909,544 Uruguayan pesos (approximately US\$ 150,000) were paid to organizations of persons with disabilities.

Article 30: Participation in cultural life, recreation, leisure and sport

449. Act No. 18651 established the National Award for Integration, which recognizes persons with disabilities (as defined in article 2 of the Act) who, through their own efforts, have made an outstanding contribution to society.

450. It also awards honours to public or private social entities that have taken concrete measures aimed at the integration or social inclusion of persons with disabilities.

451. Under article 31 of the Act, the award-winners receive a sum of money as established by the regulations and a certificate of honour, which are presented annually at a public event attended by the nation's top officials. Each year a maximum of three awards are handed out per category, at least one of which must go to a child or adolescent. Candidates are selected and prizes awarded by a jury whose members are appointed on an annual basis by the Honorary National Commission on Disability. Its functions are established in the corresponding regulations.

452. Act No. 18651 also stipulates that recreational, educational, sports, social or cultural centres must not discriminate against, and should facilitate access to and the use of facilities and services by, the persons covered by this Act.

453. Moreover, persons who qualify under article 2 of the Act as having disabilities are exempted from paying admission to concerts, shows, plays, exhibitions, sporting events and any other activity organized by public bodies. Admission is also free of charge for the person accompanying them, where this person's assistance is necessary.

454. The Social Insurance Bank provides social services for persons with disabilities. The coordination of social services programmes makes it easier to reach social security objectives aimed at personal development, the integration of marginalized persons in society and the prioritization of actions to help the most vulnerable sectors of the population. It is in this context that State coordination with non-profit civil society organizations affiliated to the aforementioned programmes comes into its own, as part of efforts to coordinate measures to help targeted populations, including persons with disabilities.

Social Tourism Programme

455. The beneficiaries of this programme are persons with disabilities who receive assistance from the organizations affiliated to the Social Insurance Bank under the Civil Society Capacity-Building Programme. These organizations offer people the opportunity to register for holiday trips organized by the Social Insurance Bank and arrange their travel and meals. Persons with disabilities have access to these services, which provide accommodation, food and recreational activities at affordable prices for persons on low incomes.

Montevideo

456. The departmental council in Montevideo runs programmes on inclusive sports and assistance for persons with disabilities, and supports the development of accessible cultural activities.

457. The Inclusive Sports Programme offers sports and recreational activities that are accessible to persons with and without disabilities, with a view to promoting games and sports for all. It is run by the Disability Secretariat with the support of the Sports Secretariat. It involves both regular events and roadshows. Some 50 persons with and without disabilities have participated in the regular events and more than 500 in the roadshows.

458. The Programme of Assistance for Persons with Disabilities has been running since 1990. The council's sports department organizes activities in swimming pools and gyms for persons with various types of disability. Hundreds of persons with different types of disability have participated in this programme, which currently has approximately 400 core users.

Maldonado

459. The council in Maldonado has built an accessible park in collaboration with the State Insurance Bank and has launched the "Accessible Beach" programme in Punta del Este and Piriápolis. This programme provides access to the beach using ramps and access to the sea via amphibious chairs. It also helps with transport where necessary and offers the services of physical education teachers.

Article 31: Statistics and data collection

460. The Honorary National Commission on Disability maintains an institutional link with the National Institute of Statistics so that it can advise the Institute on the disability issues, in accordance with the International Classification of Functioning, Disability and Health (World Health Organization (WHO) and Pan American Health Organization (PAHO)).

461. In this connection, the Commission participated in the design and formulation of questions on disability included in the 2004 Continuous Household Survey and assisted in the training of interviewers.

462. At the regional level, the Commission attended events organized as part of the Inter-American Development Bank project aimed at harmonizing the variables, definitions and assessments used in censuses in the region, including in the planning of population censuses to be conducted from 2010 onwards.

463. It was in this context, and in response to the United Nations Principles and Recommendations for Population and Housing Censuses, that the Commission became involved in the first pilot project on disability and habitual residence and participated

in the seminar on the 2010 round of censuses organized by the Inter-American Development Bank with the aim of unifying the technical criteria for the design and formulation of the questions on disability to be included in the national census of each country in the region.

464. The Social Insurance Bank keeps statistics on all the benefits and services it provides, including those for persons with disabilities. Statistical information is also gathered from reliable external sources, primarily the National Institute of Statistics (household surveys and population forecasts).

465. This information is collated and processed by the Social Security Advisory Service, where it is used as the basis for the technical analyses and observations published on the Social Insurance Bank's website, in statistical bulletins and in the Advisory Service's own technical reports ("Social security observations").

466. In the Social Insurance Bank's last two strategic plans (2006-2010 and 2011-2015), strategic directive No. 1 was "to strengthen [the Bank's] institutional capacity as the administrator and promoter of social policies" following a two-pronged approach: (a) implement a consolidated information system to store and disseminate the results of the system administered [by the Bank]; and (b) expand and develop lines of research and analysis on various aspects of the social security system.

Article 32: International cooperation

467. The Honorary National Commission on Disability, as the body responsible for disability issues in the country, is also tasked with strengthening international cooperation in the field of disability. The Commission is a member of the Ibero-American Intergovernmental Network for Technical Cooperation on Disability Policy Development. It represents the Southern Cone region in the network, having been elected with the votes of Argentina, Brazil, Chile and Paraguay.

468. The Commission also represents the Government at meetings on disability and human rights organized by international organizations. It attended the second, fourth and fifth sessions of the Conference of States Parties to the Convention on the Rights of Persons with Disabilities, and has participated in meetings on the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, of the Organization of American States (OAS), and the OAS Programme of Action for the Decade of the Americas for the Rights and Dignity of Persons with Disabilities (2006-2016).

469. The Disability Network of the University of the Republic, for its part, forms part of the Latin American and Caribbean Inter-University Network on Disability and Human Rights. The network works for the social inclusion of persons with disabilities by facilitating the exchange, dissemination and transfer of knowledge through academic outreach, teaching and research that could contribute to the promotion of the rights of persons with disabilities, vocational training and the university's engagement with disability issues.

Article 33: National implementation and monitoring

470. No national authority has been explicitly designated to implement and monitor the Convention.

471. However, the Government believes these matters fall within the remit of the Honorary National Commission on Disability, as previously mentioned.

472. The Commission is developing the National Register of Persons with Disabilities provided for in article 768 of Act No. 16736, which currently contains the names of 5,025 persons from around the country. The register is in the process of being updated both in terms of its software and the technical criteria used to determine eligibility for inclusion. The register is currently very limited as it is used only for employment-related matters.

473. Furthermore, under existing legislation, the Commission is the body with the broadest range of powers in terms of coordination, planning, implementation and nationwide application of the Convention on the Rights of Persons with Disabilities. Its work involves:

- (a) Carrying out development and research;
- (b) Conducting evaluations;
- (c) Implementing national policies on the advancement, development, rehabilitation and social integration of persons with disabilities, to which end it coordinates the action of the various State services;
- (d) Researching, planning and advising the Executive and departmental authorities on all necessary measures to effectively implement existing legislation;
- (e) Supporting and coordinating the activities of private non-profit organizations that assist persons with disabilities;
- (f) Using the media to promote the effective use of existing resources and services, as well as to nurture a sense of social solidarity on disability issues;
- (g) Sponsoring, with the support of the Ministry of Education and Culture, the Ministry of Health and the University of the Republic, scientific research into the prevention, diagnosis, and medical, psychological, educational and social treatment of various forms of disability. Research has also been conducted into the social factors that cause or exacerbate disabilities in an effort to prevent their occurrence and to be in a position to take action to diminish or eliminate them. Research, teaching and awareness-raising activities related to Uruguayan sign language have also been promoted;
- (h) In addition to its national responsibilities, the Commission also handles disability-related matters in the department of Montevideo.

474. Pursuant to articles 14 and 15 of Act No. 18651, the Honorary National Commission on Disability has been designated as the lead agency for disability issues and, in particular, has been tasked with the implementation of national policy in this respect.

475. In addition to the functions assigned to the Commission under Act No. 18651 — which are in line with article 33, paragraph 2, of the Convention — Act No. 18418, in adopting the Convention, stipulates that civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process. The Commission is the sole Uruguayan body equipped to do this.