



**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 2010


Chile

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I. Introduction

1. The initial report of Chile on implementation of the Convention on the Rights of Persons with Disabilities¹ was prepared in accordance with article 35 of the Convention. It contains detailed information on the legislation adopted, progress achieved and measures taken by the State party to ensure the full realization and enjoyment of the rights recognized in the Convention. The report focuses on the period from 29 July 2008 (the date on which the Convention entered into force for Chile) to 31 December 2011.

2. Background information on the political structure of Chile and its general legal framework for the protection of human rights can be consulted in the core document (HRI/CORE/1/Add.103). An updated version of that document was to be made available in the second half of 2012. These two texts — the common core document and the present treaty-specific document, which was prepared under the harmonized guidelines on reporting² — constitute the initial report submitted by Chile for consideration by the Committee on the Rights of Persons with Disabilities.

3. In Chile, the shift towards a social approach to disability took place before the adoption and entry into force of the Convention. By that time, the country already had a wide range of legal, political and institutional instruments in place to bring about the full social inclusion of persons with disabilities and ensure the full exercise of the rights accorded to all persons under the country's Constitution and other laws.

4. Since 1990, the Government has taken significant action to promote equality of opportunity for persons with disabilities in keeping with developments in international law. There was thus a gradual transition towards a rights-based approach and away from the traditional welfare-based programmes targeting that segment of the population.

5. The adoption by the General Assembly of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities³ prepared the way for the drafting and promulgation of Act No. 19.284, which provides for the full inclusion of persons with disabilities in Chilean society (*Diario Oficial*, 14 January 1994). The Act broke new ground by introducing an approach to disability that extends beyond a biomedical perspective to incorporate the surrounding context of the disability; as a result, all aspects of the lives of persons with disabilities are now taken into account. Disabilities are viewed no longer as an issue only for the individuals concerned and their families, but rather as a matter to be addressed by society as a whole through coordinated, intersectoral efforts on the part of the State, public-private partnerships and community involvement. Act No. 19.284 also provides for the establishment of a new body — the National Disability Fund (FONADIS) — which was partnered with the State through the Ministry of Planning and Cooperation (now the Ministry of Social Development) and tasked with administering the resources earmarked for persons with disabilities. Specifically, FONADIS would finance, in full or in part, the purchase of assistive devices for low-income persons with disabilities or for the not-for-profit organizations that work with them; it would also finance plans, programmes and projects for prevention, diagnosis, rehabilitation and social inclusion.

¹ The Convention was adopted by the General Assembly at its sixty-first session, on 13 December 2006 (resolution 61/106). Pursuant to its article 45, the Convention entered into force on 3 May 2008, the thirtieth day after the deposit of the twentieth instrument of ratification. Chile was one of the first countries to sign, having done so at the signing ceremony on 30 March 2007. Subsequent to its ratification, the Convention entered into force for Chile on 29 July 2008 (Ministry of Foreign Affairs Decree No. 201 of 2008).

² CRPD/C/2/3 (18 November 2009) and HRI/GEN/2/Rev.6 (3 June 2009).

³ General Assembly resolution 48/96 of 20 December 1993, adopted at its eighty-fifth session.

6. As from 2004, with the completion of the first national study on disability, the country has had a disability statistics database that is aligned with the new approach adopted by the World Health Organization (WHO); this is the second tool of its type in Latin America. That same year, FONADIS and the Ministry of Planning and Cooperation launched the 2004–2010 National Action Plan for the Social Inclusion of Persons with Disabilities.

7. As of this writing, the second national study on disability is currently under way and is to be completed in 2012. The study is part of a cooperation programme being conducted by the European Union and the Chilean International Cooperation Agency for the follow-up, assessment and strengthening of decentralized social inclusion policies for persons with disabilities in Chile. The aim of the study is to produce statistical information on the prevalence of disabilities, the different categories and causes of disabilities, access gaps and other relevant topics.

8. In early 2010, following the ratification of the Convention and with a view to incorporating its standards and principles, the Equal Opportunities and Social Inclusion of Persons with Disabilities Act (Act No. 20.422) was passed (*Diario Oficial*, 10 February 2010).⁴ In accordance with the new WHO model contained in the International Classification of Functioning, Disability and Health, this framework legislation extended the definition of persons with disabilities to reflect the constraints on participation and the impediments to engaging in basic day-to-day activities that these individuals experience.

9. The legislative changes promulgated in the Act reflect the principles enshrined in the Convention, in particular the prevention of multiple discrimination and a stronger system of legal remedies and sanctions. As the government agency responsible for implementing disability policy, FONADIS was succeeded by the National Service for Persons with Disabilities (SENADIS). This new body was tasked with coordinating the activities and social services provided by the various government agencies directly or indirectly involved in this sphere, offering job placement support and defending the rights of persons with disabilities in situations where individual or collective interests are at stake. SENADIS is decentralized both geographically and operationally, with offices in each of the country's regions.

10. To carry out its work, SENADIS may conclude agreements with other entities; provide technical guidance to the Committee of Ministers for Disability Affairs for the formulation of a national policy on persons with disabilities and for the periodic assessment of all government programmes and services directly or indirectly intended to ensure equal opportunities for persons with disabilities, their social inclusion, participation and accessibility; develop and implement, where appropriate, an action plan for the national policy; design and implement plans, programmes and projects; and promote and take action that fosters private- and public-sector coordination in all areas having to do with bettering the quality of life of persons with disabilities.

11. Pursuant to the regulatory authority established in the Act, headway has been made on various fronts: regulations for the certification and classification of disabilities; a national disability register; rules of procedure for the Interministerial Committee on Social Development (which replaced the Committee of Ministers for Disability Affairs)⁵ and the SENADIS Consultative Council; accessibility of televised information; accessibility of public transport; a quota system for public-sector jobs; preferential customs and import arrangements for assistive devices and vehicles; amendments to the General Ordinance on

⁴ See: <http://www.leychile.cl/Navegar?idNorma=1010903&idParte=&idVersion=2010-02-10>.

⁵ Under Act No. 20.530 (*Diario Oficial*, 13 October 2011), which established the Ministry of Social Development, the Committee's name was changed to the Interministerial Committee on Social Development (art. 13).

Town Planning and Construction; definition of Chilean Sign Language; and health labelling. Since 2010, efforts have likewise been deployed to strengthen public policy on disability, including the updating of disability statistics and the 2010–2020 National Action Plan on Disability.

12. The World Report on Disability, published by WHO and the World Bank in late June 2011, notes that 15 per cent of the world’s population lives with some kind of disability. It also states that, at some point in their lives, nearly everyone can be expected to face some kind of disability and that those reaching old age are also likely to experience difficulty functioning. This is thus not just an issue for persons with disabilities, who account for 12.9 per cent of the Chilean population (i.e., more than 2 million people): there are more than 8 million people who live with someone who has a disability.

13. A review of that report’s nine recommendations shows that Chile is moving in the right direction with the adoption of this new legislation on disabilities and the new institutional framework formed by the Committee of Ministers for Disability Affairs,⁶ the Consultative Council and SENADIS. In pursuing objectives aligned with the Convention, the country is making progress towards the inclusion of persons with disabilities.

14. The present report was prepared by an inter-agency committee comprising SENADIS, the Ministry of Social Development and the Human Rights Directorate of the Ministry of Foreign Affairs.⁷ It was released at an information meeting with civil society at the end of the drafting process and has been available to the public since then.

II. General provisions of the Convention (arts. 1 to 4)

15. The definition of disability in Chile has changed, as has the approach to it. Originally, article 3 of Act No. 19.284 (*Diario Oficial*, 14 January 1994) stated that “for the purposes of this Act, persons with disabilities are defined as those who, as a consequence of one or more physical, psychological or sensorial deficiencies, either congenital or acquired, foreseeably of a permanent nature and regardless of the causes which gave rise to those deficiencies, find their capacity to receive education, to work or to integrate into society reduced by at least one third”. Article 5 of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act (*Diario Oficial*, 10 February 2010) now defines persons with disabilities, in the light of articles 1 and 2 of the Convention, as “any persons who, as a result of one or more temporary or permanent physical, mental — whether the cause is psychosocial or intellectual — or sensory impairments, find that their full and effective participation in society on an equal basis with others is hindered or limited by different barriers encountered in their surroundings”. This conceptually based definition reflects the psychosocial approach to disability set forth in the WHO International Classification of Functioning, Disability and Health.

16. The conceptual definition of disability contained in the Equal Opportunities and Social Inclusion of Persons with Disabilities Act has helped to reshape the approach to prevention, rehabilitation and the use of assistive devices. The emphasis is now on ability to function and independent living rather than on treatment. Prevention is thus defined as any public or private action or measure whose goal is to keep people from having any impairment that restricts their participation or ability to carry out one or more essential everyday activities, as well as to keep the impairment from becoming permanent (art. 19).

⁶ Now the Interministerial Committee on Social Development.

⁷ Pursuant to Ministry of Foreign Affairs Decree No. 323 (*Diario Oficial*, 6 December 2006), whereby a coordinating commission was created to ensure fulfilment of the State’s obligations under international human rights law.

17. The definitions set forth in article 2 of the Convention of such concepts as discrimination on the basis of disability, reasonable accommodation and universal design are incorporated into the Act, which establishes in its article 3 the principles of living independently (*vis-à-vis* the environment and its component elements), accessibility and universal design, as well as intersectoral action, participation and social dialogue (with regard to public policy).

18. On the matter of possibly discriminatory behaviours or customs, it should be borne in mind that Chile is in the midst of a cultural shift in this area. Chilean society can thus be characterized as a society in transition towards equality of opportunities for persons with disabilities. This is especially true concerning discrimination in terms of, for instance, the access of persons with disabilities to the job market and to formal education. Article 8, paragraph 3, of the Act addresses necessary accommodation in the framework of the measures the State is to take against discrimination, stating explicitly that this should not impose a disproportionate burden.

19. In article 4 of the Act, requirements are stipulated for the design and implementation of programmes targeting persons with disabilities. In particular, it provides that all such programmes should seek to improve the quality of life of persons with disabilities, and their design should take into account the specific disabilities being addressed. Eligibility criteria should be defined and ranked by priority based on degree of disability and socioeconomic status. Furthermore, the State is to make every effort to carry out programmes and projects and to provide support services in locations that are as close as possible to the intended beneficiaries. Lastly, the programmes should give priority to participation by persons with disabilities, members of their families and their organizations.

20. The Act provides for progressive enforcement of the rights of persons with disabilities when those rights are dependent on large-scale or complex processes to accommodate infrastructure or legislation, bearing in mind, however, the need to set time frames for their full entry into force. For example, transitional article 1 states:

The provisions of article 25, paragraph 1, on broadcast television networks and cable television providers, and the provisions of paragraph 2 of the said article are to be fully complied with within the three years following the publication in the Official Gazette of the regulations referred to in article 25, paragraph 1. Those regulations⁸ shall be issued within the six months following the publication of the present Act, and they shall provide for a progressive formula that is to include, as a minimum, a target for accessible programming of at least 33 per cent per year.

The requirements set forth in articles 26, 27 and 42 are to be met within a period of two years following the publication of the present Act in the Official Gazette.

The remodelling of existing buildings used by the public or offering services to the community in order to ensure accessibility as provided for under article 28 of the present Act shall be completed within a term of not more than three years. The said term shall be calculated as from the date of publication in the Official Gazette of the relevant regulation issued for this purpose by the Ministry of Housing and Town Planning.

Access to means of public transport and to public property administered by the State, its agencies or municipalities, including public thoroughfares, pedestrian overpasses, parks, squares and green spaces, is to be available to and usable by

⁸ Supreme Decree No. 32 (4 February 2012) of the Ministry of Planning and Cooperation establishes standards for the use of audiovisual communication devices that enable people with hearing impairments to have access to televised broadcasts.

persons with disabilities, especially those with reduced mobility, in self-sufficient fashion and without difficulty within a term of eight years following the publication of the present Act in the Official Gazette. It shall be the responsibility of the Ministry of Planning and Cooperation, working with other Ministries concerned, to establish rules and programmes to ensure compliance.

The requirements indicated in article 31 are to be met within the two years following the publication of the present Act in the Official Gazette.

The State, working with the community of persons with hearing impairments, shall define Chilean Sign Language within a period of three years.

21. For the purposes of calculating the time frames mentioned above, the Act was published in the Official Gazette on 10 February 2010.

III. Specific rights

Article 5 Equality and non-discrimination

22. The Chilean Constitution enshrines the equality of all people in dignity and rights in its article 1; and, in article 19, it guarantees all persons equality before the law such that neither the law nor any authority may establish arbitrary differences (para. 2) and it recognizes equal protection under the law in the exercise of those rights (para. 3). These two rights are safeguarded by a remedy of protection (art. 20), which is a constitutional remedy that ensures the applicability of basic guarantees in the event that they are suspended, interfered with or imperilled as a consequence of arbitrary or illegal acts or omissions. The Equal Opportunities and Social Inclusion of Persons with Disabilities Act establishes standards relating to the right of persons with disabilities to equal opportunities, defines the scope of the standards and stipulates the State's obligations in terms of ensuring effective enjoyment of this right through affirmative action, promotion and guarantees (title I of the Act).

23. The Act reinforces the principle of non-discrimination that underlies the Chilean legal system by defining persons with disabilities in a way that takes into account the constraints on participation that they experience and the problems they encounter in carrying out essential everyday activities. In article 7, equality of opportunities is defined as the absence of discrimination on the basis of disability and the use of affirmative action to prevent or compensate for the constraints that a person with disabilities faces and that stand in the way of full participation in political, educational, working, economic, cultural and social life. Article 8 goes on to stipulate that, with a view to ensuring equality of opportunities for persons with disabilities, the State shall take steps to counter discrimination by establishing requirements with regard to accessibility, provision of reasonable accommodation and prevention of harassment.

24. Under title IV (on ensuring equality of opportunities), the State is empowered to take affirmative action with a view to improving accessibility and preventing discrimination in the following areas: (a) accessibility of culture; (b) accessibility of the physical environment and transportation; (c) education and inclusive schooling; (d) job skills training and access to job markets; (e) import duty exemptions; and (f) recognition of Chilean Sign Language as the natural means of communication of the deaf community. Article 57 provides for a special procedure in cases where a person with a disability finds the exercise of his or her legally guaranteed rights imperilled, interfered with or denied by an arbitrary or illegal act or omission. This procedure, the purpose of which is to ensure the

exercise of the right in question, may be used by any person with a disability acting on his or her own behalf or by a third party acting on another's behalf.

25. In 2011, SENADIS established an ombudsman structure to defend the rights of persons with disabilities as part of a strategic partnership with the country's public legal aid agencies, which are mandated by law to provide legal counsel and defence to those who are unable to afford such services.

26. The full application of the principles enshrined in the Convention is evident in a number of court rulings, such as the 2010 decision by the Supreme Court in which the Court, upholding a decision of the Santiago Court of Appeal, ordered a vocational school to admit a young woman with a disability who had been denied admission to a photography programme because the necessary infrastructure for her to move around in a wheelchair did not exist.⁹ The Court of Appeal had granted the appeal inasmuch as it had found that, in view of the respondent's lack of arguments, the refusal to admit the plaintiff amounted to an act of discrimination or unequal and illegal treatment insofar as it was a violation of the rights established in the Convention on the Rights of Persons with Disabilities, which are guaranteed to the plaintiff under article 19, paragraph 2, of the Chilean Constitution, thus justifying the remedy of constitutional protection.¹⁰

Article 6

Women with disabilities

27. With regard to multiple discrimination, the Equal Opportunities and Social Inclusion for Persons with Disabilities Act has, under title I (on the right to equality of opportunities), a separate paragraph on especially vulnerable persons with disabilities. The text sets out the main spheres in which the State must act to safeguard the rights of this group, which includes women and children with disabilities, persons with psychosocial or intellectual mental disabilities and persons in situations of dependency.

28. Article 9 of the Act guarantees the enjoyment of all fundamental rights and liberties on an equal basis. The State is assigned responsibility for taking the measures necessary to guarantee women with disabilities and persons with psychosocial or intellectual mental disabilities the full enjoyment and exercise of their rights on an equal basis with others, particularly as regards their dignity, their right to form and be part of a family, their sexuality and their reproductive health. According to the 2004 national study on disability, although women make up 50.5 per cent of the population, they account for 58.2 per cent of persons with disabilities (1,204,576), as compared with 41.8 per cent for men (863,496).

29. The main legislation adopted in the area of sexual and reproductive health is as follows: (a) Act No. 19.688 (*Diario Oficial*, 5 August 2000), which amended the Constitutional Act on Education (Act No. 18.962) in order to establish the right of pregnant students or students who are nursing mothers to attend school; (b) Exempt Resolution No. 2.326 (*Diario Oficial*, 9 December 2000) of the Ministry of Health, which set forth guidelines for health-care services on male and female sterilization whereby women may undergo sterilization without any requirement other than their own stated wish to do so and men and women are granted access to sterilization surgery at public health services; (c) Act No. 20.418 (*Diario Oficial*, 28 January 2010), which established legal standards on

⁹ See case No. 9147-2010, *Rosselot Abu-Gosch v. Escuela de Foto Arte de Chile*, Supreme Court decision of 24 December 2010. http://www.poderjudicial.cl/modulos/InformacionCausas/INF_causas_corte_supr.php?opc_menu=7&opc_item=1.

¹⁰ See case No. 813-2010, *Rosselot Abu-Gosch v. Escuela de Foto Arte de Chile*, decision of the Santiago Court of Appeal. http://www.poderjudicial.cl/modulos/InformacionCausas/INF_causas_corte_supr.php?opc_menu=7&opc_item=1.

information, counselling and services relating to birth control, including the Government's policy on sex education and free access to emergency contraception in the public health system; and (d) the birth control guidelines and comprehensive adolescent health programme approved by the Ministry of Health in 2007, which recognize the right of individuals to treatment, to decide freely whether they wish to use such services, to choose freely the methods that, having been duly informed, they wish to use, to safety, to privacy, to confidentiality and to dignity. To implement these legislative standards, training was provided over a two-year period to professionals in the public health network who provide this type of care.

30. In the calls for tenders to provide non-residential care services for persons with disabilities, prospective service providers are asked to include in their bids, for ex ante evaluation, implementation strategies that reflect a gender perspective. Service providers can thus spell out how they will pursue an inclusive approach and gather data on the local situation of persons living with a disability. In 2009, a workshop on the gender perspective and disability was held for technical staff of residential care centres for persons with disabilities; a framework text was subsequently prepared for use at the various kinds of residential facilities.

31. Another example of affirmative action that has furthered effective enjoyment of the rights that the Convention guarantees women and children with disabilities is found in Act No. 20.535 (*Diario Oficial*, 3 October 2011), which authorizes parents of children with disabilities to take time off from work to care for their children. Under the Act, the same rights and compensatory arrangements that apply to parents apply to those persons who have in their personal care — in other words, caregivers as defined in article 6, paragraph (d), of Act No. 20.422 — a minor with a disability who is either duly registered in the national disability register or, if under 6 years of age, has been diagnosed by an attending physician. The provisions likewise apply in cases of persons over age 18 who have psychosocial or intellectual mental disabilities, have multiple impairments or are in a situation of severe dependency.

32. As will be discussed in the section on the rights of persons with disabilities vis-à-vis work and employment, initiatives have also been taken to help women with disabilities to enter the labour market. These initiatives, which include a specific strategy to support women heads of household and women micro-entrepreneurs with disabilities, have been made possible by the SENADIS system of competitive grants.

Article 7

Children with disabilities

33. By its ratification of the Convention on the Rights of the Child¹¹ in 1990, Chile recognized a broad array of fundamental rights for children and adolescents which aim to ensure their personal development and full integration into society.

34. The Equal Opportunities and Social Inclusion of Persons with Disabilities Act, in line with the Convention, provides for protecting the rights of persons with disabilities who are particularly vulnerable, including children with disabilities. Article 9, paragraph 2, for instance, establishes that the State shall take action to ensure that children with disabilities can fully enjoy and exercise their rights on an equal basis with others, especially the right to respect for their dignity and the right to be part of a family and to retain their fertility.

¹¹ The Convention was adopted by the General Assembly on 20 November 1989, at its forty-fourth session (resolution 44/25), and entered into force on 2 September 1990. Chile signed the Convention on 26 January 1990, at the signing ceremony, and ratified it on 13 August 1990.

Article 10 provides that, in all activities relating to children with disabilities, protecting the best interests of the child is to be the primary consideration.

35. At the institutional level, the National Service for Minors (SENAME) — whose mission and objectives are based on the Convention — is responsible for guaranteeing that children and adolescents are able to exercise their rights, without exception and whatever their status. It is also responsible for establishing partnerships and coordination in the national and international public and private sectors, so that children and adolescents in vulnerable situations can have access to the benefits of public policies and governmental social programmes.

36. With regard to action taken, Act No. 20.032 (*Diario Oficial*, 25 July 2005) established a system to provide services for children and adolescents through the SENAME network of service providers, together with applicable subsidy arrangements. The Act stipulates the use of public tenders for selecting the network's participating residential care facilities and non-residential care programmes. Currently, 1,964 individuals are receiving care at such facilities and programmes, broken down as follows: 577 at residential facilities for mild disabilities, 1,017 at facilities for severe disabilities and 370 in non-residential programmes. The average monthly cost per child is 118,993 Chilean pesos (Ch\$) at a facility for mild disabilities, Ch\$ 152,656 at a facility for severe disabilities and Ch\$ 78,430 in a non-residential programme.¹²

37. Article 70 of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act establishes a special arrangement for providing and funding services and technical aids for children under 6 years of age. In such cases, the only requirement is the submission of a diagnosis by the attending physician and a treatment plan; there is no requirement for previous registration in the national disability register.

38. With regard to young people assigned to centres or programmes under the Adolescent Criminal Responsibility Act, in 2011 SENAME introduced specific guidelines on relevant differences associated with certain disabilities and how they should be reflected in interventions, given that — in the absence of such information — there are no identifiable beneficiaries/users or budgetary information for this group.

39. Also in 2011, a system was introduced to register and track adolescents upon entering the system in terms of access to basic rights, education, training, employment, health, social programmes and other areas.

40. In the area of participation, the following activities can be mentioned: (a) the "My Opinion Counts" nationwide surveys conducted by SENAME in 2004, 2006 and 2009, which included special arrangements to allow children with disabilities to also take part; (b) specific initiatives to promote participation, such as the rights advocacy offices; and (c) strengthening of participation by children with disabilities who are in residential care facilities or non-residential programmes, through the use of non-discriminatory user evaluations.

41. As part of its efforts to promote social inclusion, every year SENADIS holds a national competition to award funding for projects that promote the social inclusion of persons with disabilities. The aim is to promote the development of inclusive initiatives all around the country and thereby foster citizen participation, accessibility and equal opportunities for persons with disabilities in inclusive environments.

42. SENADIS administers a pool of competitive grant funds that are used to finance, in full or in part, health, education and accessibility-related projects whose beneficiaries include children with disabilities.

¹² As at 6 June 2011, US\$ 1 was equivalent to Ch\$ 468.23.

43. In the education sphere, the Children and Disabilities Task Force was launched in 2011 to coordinate and ensure the optimal use of the physical and human resources made available by the State and private-sector institutions. With a view to strengthening inclusive education at mainstream facilities, emphasis is placed on early intervention and the comprehensive development of children under 6 who have special needs associated with a disability. The Task Force is made up of the following bodies: the Ministry of Social Development, SENADIS, SENAME, the Education and Health Department and Special Education and Preschool Education Unit of the Ministry of Education, the Chile Grows with You programme of the Ministry of Social Development, the National Kindergartens Board (JUNJI), the Integra Foundation, the Teletón Foundation, the Pedro Aguirre Cerda National Rehabilitation Institute and the National Student Assistance Board (JUNAEB).

44. The Ministry of Education's inclusive education initiatives merit special mention, in particular the programme of the National Kindergartens Board to promote inclusive preschool education for children with special educational needs deriving from a disability. The programme receives support from the German Agency for Technical Cooperation under an international cooperation project to design and launch an education model for children with special educational needs at the National Kindergartens Board.¹³

45. Legislative advances in this area have included the updating of the Minors Act (Act No. 16.618) to establish a framework for State action in the protection of minors; the technical cooperation agreement concluded with the Civil Registry and Identity Service (2004); and the Family Courts Act (Act No. 19.968), which brought significant enhancements to the juvenile justice system. These advances are described in the third periodic report submitted by Chile to the Committee on the Rights of the Child (CRC/C/CHL/3).

Article 8

Awareness-raising

46. Numerous meetings, conferences, seminars and working groups have been organized in partnership with civil society organizations, universities and public-sector entities, among others, on the rights and equality of opportunity espoused in the Convention.

47. To ensure that the objective of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act is attained, its article 2 provides for broad circulation of information to raise public awareness about the rights of persons with disabilities and their role as active and crucial participants in society, promoting greater appreciation of human diversity and an awareness that recognizing these individuals as full members of society is a prerequisite for the progress and development of the country.

48. Action taken in this regard included a specialized seminar on the Convention and the administration of justice, organized by the Ministry of Foreign Affairs with the participation of SENADIS in December 2010; the National Plan for Equality and Non-Discrimination; the National Programme for Tolerance and Non-Discrimination; and the awareness-raising and outreach programme launched by the Office of the Minister and Secretary-General of Government.¹⁴

49. The following activities were carried out by SENADIS: (a) public consultations on the preparation of the implementing regulations for the Act; (b) organization of seminars to disseminate and publicize the Act; (c) radio campaigns to raise awareness of the Act; (d) talks at community organizations to discuss the scope of the Act; (e) regional technical

¹³ Implementation agreement signed by the Agency and the Board in May 2008.

¹⁴ See http://www.minrel.gob.cl/prontus_minrel/site/artic/20101206/pags/20101206175729.php.

meetings to publicize the scope of the Act; (f) media campaigns, including interviews, opinion columns, open letters and articles on various aspects of the Act; (g) awareness-raising about the Act among government employees; (h) seminars for members of the police on the legal scope of the Act; (i) drafting of a handbook on the Act for disabled persons' organizations; (j) design and drafting of language guidelines on disability; (k) preparation of a book entitled *Ramps and Barriers*; (l) establishment of a task force on accessibility in Temuco (Region IX); (m) presentations by the National Directorate before various legislative committees; (n) participation in the national conference of the communal disability councils; (o) organization of a seminar on inclusive employment; (p) participation in the intersectoral working group on diversity and non-discrimination of the Social Organizations Division of the Office of the Minister and Secretary-General of Government; and (q) the establishment of technical working groups on hearing impairments and mental disabilities.¹⁵ Although targeted at the general population, these activities are tailored to the different groups being addressed, such as disabled persons' organizations, municipal authorities, university students, business associations, government employees, police officers, legislators, mayors and governors.

50. Within the framework of the ombudsman structure to defend the rights of persons with disabilities, one of the objectives of the agreements concluded by SENADIS and the legal aid agencies is to provide the professionals and staff of these agencies with training in issues related to disabilities, the Convention and the Act. An effort is also being made to ensure that implementation of the agreements includes activities to promote and raise awareness about rights among disabled persons' organizations.

51. In the sphere of participation, social dialogue and decentralization, which are among the guiding principles of the Act, SENADIS has carried out the following activities: (a) since 2011, participatory dialogue events have been held in all regions of the country in order to involve organizations of persons with disabilities in the drafting of an action plan that reflects their principal concerns vis-à-vis the issue of disability and thereby produce a situational analysis of existing supply and demand as a core element for designing a policy and associated plan of action; (b) a project was launched to monitor, evaluate and strengthen decentralized policies for the social inclusion of persons with disabilities, under a cooperative initiative of the European Union and the Chilean International Cooperation Agency aimed at fostering social inclusion and the effective exercise of rights by persons with disabilities through regional implementation and integration of public policy on disability; (c) as part of the National Action Plan for the Social Inclusion of Persons with Disabilities, six regional meetings were organized to promote the principles of the Convention; (d) a public information campaign was launched on the correct use of parking spaces for persons with disabilities; (e) a painting competition entitled "My school is for everyone" was organized for primary and secondary school students as part of the inclusive education campaign; (f) the Safe Summer campaign was launched, aimed at preventing accidents at beaches and swimming pools that could result in disability; (g) an information campaign was carried out on respect for the rights of persons with assistance dogs; and (h) a series of regional meetings were organized to disseminate information about the Convention throughout the country; this included a radio campaign and the distribution of pamphlets, flyers and posters on the principles and rights of persons with disabilities as established in the Act.

¹⁵ See: <http://www.senadis.gob.cl/derechos/consulta.php>.

Article 9 Accessibility

52. The Equal Opportunities and Social Inclusion of Persons with Disabilities Act defines universal accessibility as the condition that must be met by environments, processes, goods, products and services, as well as objects or instruments, tools and devices, in order that they may be understood, used or operated by all people in conditions of safety and comfort and in the most independent and natural manner possible (art. 3, para. (b)). The principle of independent living is defined as the state in which a person is able to take decisions, perform actions autonomously and participate actively in the community (art. 3, para. (a)).

53. Article 8, paragraph 2, defines requirements of accessibility as the requirements that must be met by goods, environments, products, services and procedures, as well as non-discrimination in standards, criteria and practices, in accordance with the principle of universal accessibility; and paragraph 3 defines reasonable accommodation as the adjustments made to the physical and social environment and attitudes in order to meet the specific needs of persons with disabilities and thereby effectively and practically facilitate accessibility or participation of persons with disabilities on an equal basis with other citizens, without imposing a disproportionate burden.

54. These principles are elaborated upon in various provisions of the Act, particularly in the first section (on accessibility measures) of title IV (on ensuring equality of opportunities). The areas addressed include accessibility of information and means of communication, accessibility of the physical environment, education and inclusive schooling, job skills training and workforce inclusion, health and others. Pursuant to article 23, the State — working through its respective agencies — is to design and take affirmative action to eliminate architectural barriers and promote universal accessibility. The various specific measures to be taken are discussed in the paragraphs below.

Accessibility of information and means of communication

55. Article 25 of the Act makes it compulsory for public and cable television providers and all those responsible for public service announcements, national broadcasting networks and electoral propaganda to include means of audiovisual communication for persons with hearing impairments, for instance through closed captioning or sign language interpreting. Transitional article 1 of the Act stipulates that this requirement is to be met in full within the three years following the publication in the Official Gazette of the regulations referred to in article 25, which are to establish the means of audiovisual communication necessary for the exercise of these rights, with gradual progress of 33.3 per cent each year towards that target.

Accessibility of information in public libraries

56. In its article 27, the Act provides that public libraries should be equipped with materials, infrastructure and technologies that are accessible to persons with sensory disabilities, including facilities, reasonable accommodation and the provision of support services for these users. Pursuant to transitional article 1, public libraries are to comply with this standard within the two years following the publication of the Act, that is, by 10 February 2012.

Accessibility of pharmaceutical products, dietary supplements and cosmetics

57. Pursuant to Article 32 of the Act, these products must bear their name and expiry date in Braille in order to ensure due protection of visually impaired users. Braille labelling is currently in the process of certification.

Accessibility of the physical environment

58. With regard to architectural barriers to accessibility, article 23 of the Act provides that the State — working through its respective agencies — is to design and take specific action to eliminate architectural barriers and promote universal accessibility. In point of fact, the Ministry of Housing and Town Planning has been issuing regulations and taking action to forestall or offset problems experienced by persons with disabilities since the enactment of the previous legislation, Act No. 19.284 (*Diario Oficial*, 14 January 1994), which established standards for the full social inclusion of persons with disabilities. In particular, the 1992 General Ordinance on Town Planning and Construction was amended to introduce the following requirements: (a) elimination of architectural barriers in order to facilitate the movement of persons with disabilities in public places, with regard for instance to ramps, pedestrian crossings, circulation on pavements, lowering of curbs and the location of street furniture, traffic lights and parking spaces; (b) minimum number and dimensions of parking spaces for persons with disabilities; (c) access doors, flooring, ramps, elevators, horizontal circulation, sanitary facilities, public telephones and signage for public buildings and mixed-use buildings; (d) minimum specifications (dimensions and gradient) for ramps; (e) minimum specifications of elevators for persons with disabilities; and (f) accessibility requirements, such as bathrooms outfitted for use by persons with disabilities at hospitals and clinics, theatres and other gathering places, sports grounds, hotels and factories.¹⁶

59. All new government and private buildings constructed since 1994 have met the requirements of the General Ordinance, albeit not necessarily in identical ways. Generally speaking, it can be said that the issue of access to facilities has been resolved, acknowledging however that there is still a gap in terms of circulation and use of indoor and public spaces.

60. With regard to public buildings and spaces, article 28 of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act provides that all public buildings and all buildings where a service is provided to the community, regardless of the occupancy load, as well as all new mixed-use buildings, must be accessible and usable — without assistance and without difficulty — by persons with disabilities, in particular by persons with reduced mobility. These requirements apply as well to all public or private construction works located in any urban public space, access to means of public transport and access to public property. If such buildings and works have elevators, these must be able to transport persons with disabilities in accordance with applicable regulations. The accessibility of government buildings is currently being assessed as a kind of self-evaluation geared towards ensuring compliance with this article.

61. The Act thus improved on the previous regulations by broadening the accessibility requirements for public buildings to include buildings where a service is provided to the community and new mixed-use buildings (regardless of the occupancy load) and by extending these requirements to public property, which is more encompassing than the previous definition. Another innovation of the Act is the standard of autonomous usability by all persons and not just by persons who use a wheelchair, as was the case under the previous legislation.

¹⁶ Supreme Decree No. 47 of the Ministry of Housing and Town Planning (*Diario Oficial*, 5 June 1992).

62. At the institutional level, the Act assigns to the Ministry of Housing and Town Planning responsibility for drawing up standards for new works and buildings, as well as the standards and conditions whereby existing works and buildings are to gradually be brought into line with accessibility requirements (art. 28, para. 3); this means taking on new challenges and meeting stricter requirements in the application of accessibility standards. The Ministry has taken the following action in this area:

(a) On its website, it maintains a nationwide register of accessible buildings showing which public and mixed-use buildings with an occupancy load of more than 50 persons meet the accessibility requirements for persons with disabilities pursuant to the Ministry's Supreme Decree No. 201/98 and Supreme Decree No. 32/02. With the entry into force of the Act, an effort was launched to update the registry's information on government buildings and offices to provide greater detail and reflect the degree of compliance with the new requirements;

(b) Pedestrian guide strips and tactile strips (Act No. 19.284) have been included in the urban road design recommendations of the Ministry's urban road planning manual.¹⁷ The manual outlines procedures and recommendations for the planning, design, construction and operation of urban road infrastructure. It is intended as a guide for designing the most common elements of urban road infrastructure and, specifically, all urban road works that are contracted, approved, supervised or carried out by the Ministry's Housing and Urban Development Services or any other public or private body engaging in any of those activities. Initiatives are currently under way to mainstream the concept of universal accessibility, moving away from the focus on persons who use wheelchairs;

(c) Housing conditions for persons with disabilities have improved. Article 29 of the Act establishes that the Ministry's housing programmes should include subsidies for the purchase and outfitting of dwellings intended for regular and permanent residence by one or more persons with disabilities, their families, caregivers, guardians or others who live with them. The General Ordinance on Town Planning and Construction would set out the accessibility standards to be met by housing intended for persons with disabilities. The measures taken to implement this provision include the following: (i) intersectoral action with SENADIS and the Ministry of Social Development to mainstream accessibility of housing and employment in various social programmes; (ii) establishment of a working group to redefine the requirements applicable to low-income housing; (iii) establishment of a working group under the Chile Solidario housing programme; (iv) as a complement to the joint programme of the Ministry of Social Development and the Solidarity and Social Investment Fund (FOSIS), design of an analytical worksheet that includes the technical specifications for low-income dwellings built under the Solidarity for Housing Fund, which is the main social housing programme of the Ministry of Housing and Town Planning, together with a special subsidy for persons with disabilities; and (v) the granting of additional points to applications for subsidies under the Ministry's housing programmes for the construction, purchase, expansion, repair or remodelling of a dwelling intended for regular and permanent residence by one or more persons with disabilities and their families, caretakers or guardians who live with them. In 2009 and 2010, a total of 2,005 families received additional points when applying for a subsidy on the ground of disability, disaggregated by programme as follows:¹⁸

¹⁷ As amended by Decree No. 827 of 2008.

¹⁸ Exempt Resolution No. 2070 of 2 April 2009.

Table 1
Applications for disability subsidy

<i>Programme</i>	<i>No. of families</i>
Solidarity for Housing Fund	1 108
Family Assets Protection Programme	655
Housing Subsidy Programme	204
Rural Subsidy Programme	38
Total	2 005

63. For its part, SENADIS took the following action in this area:

(a) Intersectoral work and coordination with the Ministry of Public Works to draft and implement a national disability and accessibility policy and to include disability and accessibility in plans and programmes, such as (i) the working group to evaluate the project to rebuild the waterfront of the town of Dichato (Region VIII), which had been destroyed by the 2010 earthquake and tsunami; the evaluation included strict accessibility standards. The Ministry's Directorate of Port Works has undertaken to incorporate this aspect into all its projects, thus launching the country's new system of accessible beaches; and (ii) technical inspections and site visits to ensure the proper implementation of accessibility standards at the Plaza de Abastos, San Francisco and Santa María markets in Santiago;

(b) Establishment of working groups on universal accessibility in the various administrative regions of Chile. This process will be implemented in line with progress and undertakings made by each region in the area of inclusion. Mention can be made here of the pilot intersectoral working group in the La Araucanía Region, established by a memorandum of understanding signed on 21 October 2010 in Temuco by the Ministry of Housing and Town Planning, SENADIS, the National Tourism Service, the Office of the Governor, the Municipality of Temuco, the not-for-profit organization Corporación Ciudad Accesible, the Chilean Chamber of Construction, the Chilean Association of Professional Architects, the Teletón Foundation, the Chamber of Commerce, Service and Tourism, and Universidad Autónoma de Chile; the working group's objective is to propose improvements that will make Temuco and the La Araucanía Region accessible to all residents;

(c) Establishment of a working group on the use of reserved parking. Article 31 of the Act stipulates that public and private commercial, industrial or service establishments, establishments that stage artistic, cultural or sporting events, buildings whose use entails public access and areas for public use that have vehicle parking shall all reserve a sufficient number of parking spaces for the use of persons with disabilities, in accordance with the provisions of the General Ordinance on Town Planning and Construction; responsibility for monitoring compliance lies with the municipal government. Compliance may be gradual, but the deadline for full compliance is two years after publication of the Act, that is, by 10 February 2012.¹⁹ On the basis of this mandate, SENADIS set up the intersectoral working group to encourage the correct use of parking spaces reserved for persons with disabilities. The working group members include the Ministry of Housing and Town Planning, the

¹⁹ On 20 April 2012, the Carabineros (police) published General Order No. 2074 approving the inclusion in their traffic manual of annex no. 10, which concerns the regulation of parking for persons with disabilities.

Ministry of Transport and Telecommunications, the Civil Registry and Identity Service, the Municipal Governments Association, private businesses, disabled persons' organizations and representatives of civil society. The working group has drafted a set of ten guidelines, and a nationwide public information campaign²⁰ is currently under way on the correct use of parking places reserved for persons with disabilities;

(d) A geo-referenced information system on the accessibility of public buildings. This technological initiative, which was launched in January 2011 through a public-private partnership, seeks to promote citizen participation in building a database of up-to-date information on the quality of access to buildings in Chile; the information is published on a website containing city maps. In addition to strengthening citizen participation in monitoring compliance with legislation on accessibility, this initiative should serve as an incentive for buildings to bring themselves into line with these requirements.

Accessibility of transport

64. Persons with disabilities are entitled to board, and travel by, any public or private mode of land or sea transport, free or paid, that provides individual or collective services in the national territory. Article 30 of the Act provides that all modes of public transport should have appropriate signage, seats and space and be easily accessible to persons with disabilities. The bidding specifications of tenders for the public transport of passengers must stipulate these requirements. Transport operators may not require passengers with disabilities to meet special requirements or conditions in order to access public transport services.

65. Much of the legislation relating to transportation had already been adjusted previously under Act No. 19.284 (*Diario Oficial*, 14 January 1994). Significant progress has been made in the following areas:

(a) *Buses and minibuses*. Under the amended regulations governing public passenger transport services,²¹ operators must provide seats that are easy for persons with disabilities to access — at least one in every ten seats, which should be identified with the international symbol of access (ISA) — in all urban and rural collective transport services of up to 50 km in length and in longer rural services authorized to transport up to 20 standing passengers; the only exception is for transport services provided in rental cars. In 2000, a regulation was introduced making it mandatory for buses to have a tactile guide on the upper handrail of the vehicle and in the area in front of designated seats to indicate to visually impaired persons that those are seats reserved for persons with disabilities.²² Compliance with these obligations is verified as part of the periodic technical inspection of vehicles. In 2005, an exception was introduced to the regulation prohibiting dogs on public transport vehicles to allow assistance dogs accompanying persons with disabilities;²³

(b) *Transantiago*. The public transit system of Santiago began to make accommodation for access and use by persons with disabilities in 2007. The number of accessible vehicles has gradually increased since then: in 2009, 3,222 buses (51.4 per cent of the total fleet) met accessibility requirements. Currently, 77 per cent (6,200 buses) meet

²⁰ The “Reserved parking” campaign disseminates the ten guidelines as well as pamphlets on the correct use of parking reserved for persons with disabilities. The regional directorates have launched campaigns at the local level, and the Carabineros have started to receive training on this topic.

²¹ Supreme Decree No. 212 of 1992.

²² Supreme Decree No. 142 (*Diario Oficial*, 17 August 2000).

²³ Article 91 of Act No. 20.068 (*Diario Oficial*, 10 December 2005) amending Act No. 18.290 (on land transport), the current version of which is contained in article 87 of Legislative Decree No. 1/2007 of the Ministries of Transport and Telecommunications and of Justice, which establishes the consolidated text of the Transit Act.

these standards, and plans are to add 3 per cent more in the first half of 2011. With regard to related infrastructure, bus stops and transfer stations have also been adapted: 22 per cent of covered bus stops are accessible; and the 35 transfer stations offer a total of 226 accessible stops. Information in Braille is available at 16 stops;

(c) *Metro de Santiago*. Following the promulgation of Act No. 19.284 in January 1994, the Santiago metro system began to build stations that were accessible to persons with disabilities. The initial sections of lines 1 and 2, which were built earlier, do not have access facilities for persons with disabilities, but — as part of a Ch\$1.6 billion investment plan — elevators were introduced in five of the main stations in 2009. The Santiago metro currently serves 21 districts through 108 stations; of these, 77 (71 per cent of the network, which is 10 per cent more stations than in 2008) are accessible to persons with disabilities by means of elevators, stairlifts, marked paths for the visually impaired, Braille text on handrails and turnstiles, and audio messages on elevators and trains. A joint working group of SENADIS and Metro de Santiago is evaluating accessibility at stations and will decide on measures to be implemented. In 2011, Metro de Santiago updated its strategic plan to include better accessibility with a view to achieving an accessible transport system within the next eight years;

(d) *Metro Valparaíso*. The Valparaíso public transit system connects eight districts in the Valparaíso Region (Region V). The service provides some facilities for persons with disabilities, such as reserved seats, space for wheelchairs at the end of trains, audio and light signals to indicate that doors are closing and an assistant on each level. Four stations have an elevator with information in Braille; the rest of the stations are not accessible;

(e) *Railways*. In 2005, the State railway company introduced a series of modifications to make trains and train stations more accessible to persons with disabilities. These included ramps for accessing or changing platforms at all 18 Metrotrén stations, built to appropriate technical specifications, clearly identified and equipped with metal handrails on both sides; 50 mobile ramps for wheelchair access to trains (at least two per station); installation of small ramps to make pavement surfaces level and also ensure access to offices at all Metrotrén stations and at the Curicó-Chillán long-distance service (six stations); pedestrian level crossings at all Metrotrén stations, which allow persons with disabilities or those using wheelchairs to change platforms; toilets for persons with disabilities in all stations that have public toilets; space for wheelchairs on all 15 Metrotrén trains; and installation of 90-cm-wide metal gates at all entry and exit barriers that have turnstiles, to be opened by the guard at the request of the ticket booth attendant or the user. The implementing regulations for the Act with regard to the public transport of passengers (Supreme Decree No. 142/2011), drawn up jointly by the Ministry of Planning and Cooperation and the Ministry of Transport and Telecommunications, merit special mention. These regulations apply to buses and minibuses that provide collective urban, rural and intercity transportation services for the public transit of passengers; to the metro and suburban trains; to trains and rail services; and to vessels registered in Chile that have accommodation or areas for passengers. Vehicles considered to be cultural or historical heritage and those intended solely for touristic or recreational purposes are exempted. The regulations, with a view to their reflection in public tenders for transport services, establish the number of seats to be set aside for persons with disabilities or reduced mobility, how the seats are to be marked, the dimensions and signage for spaces reserved for passengers using wheelchairs, where such spaces are to be provided etc. The general time frame for compliance is 180 days, with the exception of reserved places for passengers in wheelchairs

on the metro, suburban trains and general rail services, for which there is a deadline of 12 months;²⁴

(f) *Signage for persons with visual impairment.* Chapter 2 of the Traffic Signage Manual, which deals with vertical signage, provides that posts bearing signs with street names and numbers may be fitted with a plaque 25 cm high by 7 cm wide indicating in Braille the street names and numbers and the four cardinal directions. In chapter 4 of the Manual, provision is made for traffic lights to have accompanying audio signals, and this has been done in two main pedestrian zones in downtown Santiago. In 2010, the Traffic Control Operations Unit installed similar traffic lights at two pedestrian crossings near schools for blind persons in the municipalities of Providencia and Ñuñoa. These traffic lights have in addition a special button panel for visually impaired persons and there are pedestrian guide strips indicating the crossing;

(g) *Vehicle inspection stations.* In 2010, the call for tenders for vehicle inspection stations in two regions included a requirement to have ramps and bathrooms for persons with disabilities and that the payment counter should be located on the ground floor. Other stations around the country began introducing similar facilities between 2005 and 2007; two were to be put out to bid in 2011.

Educational institutions

66. Article 36 of the Act provides that regular education establishments should incorporate all such innovations and changes to curricula, infrastructure and support materials as may be necessary to permit and facilitate access for persons with disabilities to existing courses or levels.

67. In this respect, SENADIS is coordinating a joint project with the Ministry of Education and other education sector partners (e.g., the National Kindergartens Board and the Integra Foundation) to mainstream accessibility and universal design standards for educational infrastructure as part of an inclusive education policy. SENADIS also serves as coordinator for the working group to evaluate new and existing flagship projects and the Department of Education working group on children and disability.

Article 10 Right to life

68. Under article 19, paragraph 1, of the Constitution, all persons have the right to life and physical and psychological integrity. In addition, Act No. 18.826 (*Diario Oficial*, 15 September 1989) amended article 119 of the Health Code to prohibit any action whose purpose is to induce an abortion. Accordingly, the possibility that a human being in gestation may have a disability does not justify termination of a pregnancy. Act No. 20.120 (*Diario Oficial*, 22 September 2006), concerning scientific research on human beings and their genome and the prohibition of human cloning, protects the life of human beings as from the moment of conception, as well as their physical and psychological integrity and their genetic diversity and identity, with respect to biomedical research and its clinical applications (art. 1). Thus, persons with disabilities are not treated any differently in regard to this right.

²⁴ Efforts are currently being coordinated with Metro Santiago and Transantiago to implement these regulations.

Article 11

Situations of risk and humanitarian emergencies

69. SENADIS and San Sebastián University in Santiago have observed that in emergency situations — such as the earthquake and tsunami that struck south-central Chile on 27 February 2010 — technical aids for the inclusion of persons with disabilities can be lost or destroyed. In the case cited, such aids included wheelchairs, canes, walking frames, anti-bedsore mattresses, prosthetics, orthotics and hearing aids.

70. To respond to that emergency, procedures were streamlined for distributing technical aids to persons with disabilities and to beneficiaries of SENADIS-funded programmes and projects living in the disaster zone.

71. SENADIS developed a strategy for the swift and direct processing of requests for technical aids and their distribution in the affected areas with a view to reducing the wait period to six months. Requests for technical aids were channelled through municipal authorities, health services, regional administrations, provincial governments and disabled persons' organizations, which made it possible to ensure targeted and timely delivery of aids with the assistance of SENADIS staff at the central and regional levels.

72. The media and public and private organizations working with the population in these areas received guidance on proper consideration for and the protection of the rights of persons with disabilities. For instance, television newscasts and bulletins would need to include sign language to ensure that persons with hearing impairments had access to the information; recommendations were issued to the Armed Forces, the Carabineros (police) and security forces regarding basic procedures when dealing with persons with physical, sensory or mental disabilities; a fact sheet was prepared on providing assistance to persons with disabilities in an emergency; and recommendations were drafted regarding basic emergency housing and accessibility with a view to enabling users with disabilities to perform their daily activities as autonomously as possible.

73. Recommendations on including a disability perspective in post-emergency reconstruction plans were formulated for the National Emergency Office (ONEMI), the SENADIS regional offices, the Ministry of the Interior, regional administrations, provincial governments and the media in order to uphold the rights of persons with disabilities as set forth in the Convention and national legislation.²⁵

Article 12

Equal recognition before the law

74. Article 1 of the Constitution sets forth a basic principle in this regard, stipulating that all persons are born free and equal in dignity and rights. In addition, the State has a duty to safeguard national security, protect the population, protect and help to strengthen the family, promote the harmonious integration of all sectors of the nation and ensure that persons have equal opportunities to take part in national life (fourth paragraph). Chile has also assumed a number of international obligations as a party to various human rights treaties. Reference is made to the information provided above in the section on article 5 of the Convention.

²⁵ http://www.senadis.gob.cl/descargas/centro/otros/Cartilla-Apoyo-a-personas-con-discapacidad-en-situacion-de-emergencia_Chile.pdf.

75. The Civil Code, which was drafted over 150 years ago, establishes the attributes associated with the status of a being person. According to its article 55, all human beings, regardless of their age, sex, lineage or condition, are persons.

76. The general rule in the Chilean legal system is that all persons enjoy full legal capacity. However, in terms of the ability to exercise this right (understood as the legal capacity to exercise one's rights oneself or to enter into a contract without another's authorization), the law does provide for restrictions in certain cases. For example, article 1447 of the Civil Code establishes that persons of unsound mind, prepubescent children and deaf or deaf-mute persons who are unable to make themselves clearly understood shall be considered legally incapable; their acts shall not give rise to natural obligations or commitments; and juvenile adults and profligates who are prohibited from managing their own affairs shall also be considered as legally incapable. For juvenile adults and profligates, though, the incapacity is not absolute, and their acts may have some legal effect under certain circumstances and in certain respects, as determined by law. In the case of absolute incapacity, in order for the aforementioned provision to be applicable, the person concerned must be declared legally incapable by a judge, in which case a substitute decision-making regime comes into play. Lastly, in addition to these incapacities, there are other circumstances in which the law may ban certain persons from performing specific acts.

Article 13

Access to justice

77. In Chile, everyone has the right to access to justice, as laid down in article 19, paragraph 3, of the Constitution, which guarantees all persons equal protection of their rights under the law. Everyone has the right to legal representation as provided for by law, and no authority or person may impede, restrict or disrupt a lawyer's actions once legal representation has been requested.

78. With regard to penalties for discriminatory acts or omissions that may impede persons with disabilities from exercising their rights under the law, article 57 of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act provides for a special proceeding whereby the local police court nearest the interested party's home may impose a fine on the perpetrator of a discriminatory act or omission. The fine may be increased depending on the seriousness of the offence and on whether or not it is a first offence; the maximum penalty is the closure of the establishment at fault (art. 58). Furthermore, the law requires that courts make the necessary accommodations to enable persons with disabilities to communicate and to access court records in order to ensure that their rights are duly upheld. Article 28 provides that a third-party action may be brought before local police courts. This makes it possible for anyone to report non-compliance with accessibility standards in public buildings and those in which services are provided to the community.

79. Act No. 20.146 of 9 January 2007, on special rules for appeals in disability discrimination cases, amended appeals court procedures by introducing measures to facilitate the processing and definitive resolution of cases in which the appellant is a person with a disability. Priority is given to adjudicating cases in which persons with disabilities are bringing charges of discrimination or are claiming that their enjoyment of their rights has been jeopardized.

80. The Public Criminal Defender Service has built mechanisms into its internal policies to safeguard the rights of persons with disabilities. In 2010, the regional defence service of the Valparaíso Region reached agreement with the deaf community on the following matters in connection with the arrest of any members of that community: (a) instructing members of the Carabineros and Investigative Police not to handcuff deaf suspects with

their hands behind their backs inasmuch as doing so would prevent them from communicating and thus infringe their right to an adequate defence; (b) ensuring that a defence attorney and an interpreter are present in police precincts; and (c) recruiting sign language interpreters to accompany defence attorneys to interviews and hearings. As well, information sessions have been held for the deaf community regarding the basic principles of the new criminal procedure, the role of the Public Criminal Defender Service, the location of criminal defence service offices and the action that deaf persons can take if they are the victim of a crime. In 2011, SENADIS signed a cooperation agreement to integrate a disability perspective into the work of the Investigative Police, and it took part in training sessions for Prison Service staff.²⁶

81. Regarding rights advocacy, SENADIS has set up an inclusive legal support network to facilitate access to justice for persons with disabilities through the coordinated efforts of public and private entities. The model gives preference to alternative, non-litigious dispute resolution mechanisms as much as possible, and every effort is made to directly involve the parties concerned in finding settlements. The provision of legal assistance is not limited to criminal matters but is also available in administrative courts, which are playing an increasingly important role. Experience has shown that issues affecting persons with disabilities are more frequently of an administrative nature, such as disputes with the Office of the Superintendent of Health, the Office of the Superintendent of Pensions and the National Consumer Service.

82. The signing of agreements in 2011 between SENADIS and legal aid agencies²⁷ marked a significant step forward in building the rights advocacy network. Three agreements were signed, for a total of Ch\$ 97.5 million, with a view to providing nationwide rights protection for persons with disabilities in areas falling within the mandate of the legal aid agencies. The agreements are aimed at providing legal assistance to persons with disabilities, offering training to professionals and public servants regarding disability issues, conducting a baseline survey of accessibility conditions at public health services, gathering statistics on the persons with disabilities who use those services, and raising awareness and disseminating information about the rights of persons with disabilities among civil society.

83. Agreements have also been signed with private entities, including the Pro Bono Foundation, the Concepción Bar Association and Universidad Central de Chile. This network will continue to be strengthened.

Article 14

Liberty and security of the person

84. This right is laid down explicitly in article 19, paragraph 7, of the Constitution, which guarantees everyone the right to personal liberty and security. All Chileans thus have a constitutional right to live and reside anywhere in the country, to move from one place to another and to enter and leave the country, provided that they abide by the law and do not harm others. Furthermore, no one may be deprived of this personal liberty or have it restricted except as set forth in the Constitution and by law, in which case due process is guaranteed.

²⁶ The Prison Service is a public entity under the Ministry of Justice whose mandate, in addition to other functions defined by law, is to care for, guard and ensure the social reintegration of persons who, by decision of the competent authorities, have been detained or deprived of their liberty.

²⁷ Legal aid agencies provide free legal assistance and guidance to low-income individuals. At the same time, they provide law students with an opportunity to obtain the practical training required to complete their degree.

85. The Code of Criminal Procedure has been amended to provide for the presence of sign language interpreters during proceedings involving deaf persons (title 3, on hearings, Section 2, on the principles of hearings, art. 291, paras. 3–4). Article 458, on the exemption from criminal responsibility on the grounds of mental illness, sets forth rules on determining the legal capacity of persons with mental disabilities; they thus cannot be tried without a prior determination of their capacity.

86. Regarding the rights of persons with disabilities who are in the prison system, SENADIS and the Prison Service have collaborated to bring prison infrastructure into line with the standards defined in the Equal Opportunities and Social Inclusion of Persons with Disabilities Act. They have also exchanged technical expertise concerning the appropriate treatment of persons with disabilities deprived of their liberty.

Article 15

Freedom from torture or cruel, inhuman or degrading treatment or punishment

87. Chile has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*Diario Oficial*, 30 September 2008) and the Optional Protocol thereto (*Diario Oficial*, 12 December 2008). Such acts are strictly prohibited under the Chilean legal system and are subject to criminal penalty. More detailed information is available in the fifth periodic report of Chile on its implementation of that Convention (CAT/C/CHL/5).

Article 16

Freedom from exploitation, violence and abuse

88. In the last paragraph of its article 1, the Constitution stipulates that it is the duty of the State to safeguard national security, protect the population, protect and help to strengthen the family, promote the harmonious integration of all sectors of the nation and ensure that persons have equal opportunities to take part in national life.

89. This constitutional mandate has been implemented through various laws and protective actions, such as the Domestic Violence Act,²⁸ the establishment and modification of family courts,²⁹ the new legal procedures for safeguarding and ensuring the strict observance of rights and the creation of specific bodies to monitor the respect of fundamental rights and ensure the protection of women and children, e.g., the National Service for Minors (SENAME) and the National Service for Women (SERNAM).

90. Various intersectoral agreements have been concluded with a view to ensuring protection for all persons, especially children, adolescents and women in situations of vulnerability, including those with disabilities. Specific mention can be made of the agreement between the Ministry of the Interior, SENAME, SERNAM and the Carabineros (2009); the cooperation agreement between the Ministry of Justice, SERNAM, legal aid agencies and SENAME (2007); the cooperation agreement between the Ministry of Justice, SERNAM and SENAME (2003); and the agreement between the Public Prosecution Service and SENAME.

91. A number of related initiatives have also been launched, such as the Victim Support Network, the establishment of a registry and intervention framework for the worst forms of

²⁸ As amended by Act No. 20.066 (*Diario Oficial*, 7 October 2005).

²⁹ Act No. 19.968 (*Diario Oficial*, 30 August 2004).

child labour and the regional committees for the prevention and elimination of child labour. A national policy paper on assistance for victims, which includes preventive measures to be taken, is currently under review and is expected to be adopted soon.

92. The Victim Support Network, which includes SENAME as a member, has concentrated its efforts on designing an effective, coordinated and comprehensive approach to understanding and addressing the issues faced by children and adolescents who have been subjected to ill-treatment or exploitation or are indirect victims of murder resulting from violence against women.

93. Protection is also provided through a case notification procedure whereby local teams report to the Public Prosecution Service, the police or the Crime Victim Support Centre of the Public Security Division of the Ministry of the Interior any cases they detect of children or adolescents who are victims of a violent crime, so that they may be referred to appropriate care services.

94. In addition, SENAME has entered into agreements with NGOs to carry out targeted prevention projects for children and adolescents; and it has signed cooperation agreements with other government agencies with the aim of preventing violent crime and any other type of violence against children and adolescents, irrespective of their status, including the worst forms of child labour and commercial sexual exploitation.

95. With regard to protection for women, the current legislation governing SERNAM contains some indirect references, as do articles 5 and 7 of the Domestic Violence Act. Further information can be found in the combined fifth and sixth periodic reports of Chile on its implementation of the Convention on the Elimination of All Forms of Discrimination against Women, dated 6 January 2011.³⁰

Article 17

Protecting the integrity of the person

96. As indicated previously, Chile has no policy of forced sterilization of persons with disabilities. This procedure is performed only in exceptional cases and at the explicit request of the legal guardian and with the consent of area specialists. Article 11 of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act stipulates that under no circumstances shall persons with mental disabilities be subjected against their will to procedures or treatments that violate their dignity or rights or that are part of medical or scientific experiments.

97. As part of the general strategy to improve health-care quality, informed consent is a prerequisite for any procedure. Whenever possible, consent must be given directly by the individual concerned or, if that is not possible, by the family or guardian.

98. Regarding physical health, treatment regimens under the Ministry of Health's Comprehensive Rehabilitation Programme are established in collaboration with the individual concerned and his or her family. In the area of mental health, the right to integrity is further safeguarded through an additional level. The country's medium- and high-complexity establishments have a care management subdirectorate to ensure that standards are observed; this function is supported further by hospital ethics committees and all research protocols that are conducted within regional care networks.

99. In 2000, the National Commission for the Protection of Mentally Ill Persons was set up under the Ministry of Health, together with a series of subordinate regional commissions.

³⁰ See http://www.minrel.gob.cl/prontus_minrel/site/artic/20080902/asocfile/20080902204316/110107_informe_nacional_cedaw.pdf.

The regional commissions have been fully operational since 2002 and, in addition to advocacy, their remit includes overseeing residential psychiatric institutions, assessing and making recommendations on compliance with legislation on irreversible procedures (e.g., surgical sterilization, psychosurgery) and investigating and resolving complaints and claims of rights violations in accordance with the Convention.

Article 18

Liberty of movement and nationality

100. Chapter II of the Constitution governs the acquisition of nationality and citizenship. The provisions on nationality apply uniformly and do not distinguish between persons on the grounds of disability.

101. The Constitution guarantees freedom of movement for all, without exception. Article 19, paragraph 7, specifically safeguards the right of all to live and reside anywhere in the country, to move from one place to another and to enter and leave the country, provided that they abide by the law and do not harm others. The accessibility-related laws, policies and measures referred to in the discussion on article 9 of the Convention also ensure the right to freedom of movement for persons with disabilities, inasmuch as they create an obligation to make all accommodations necessary for access to and movement within public and private spaces and on all modes of transportation.

102. Information on the accessibility measures taken specifically to facilitate the movement of persons with disabilities is provided above in the discussion on article 9 of the Convention.

103. Concerning the steps taken to ensure that all children with disabilities are registered at birth and have a name and a nationality, in 1990 Chile ratified the Convention on the Rights of the Child, which defines as fundamental rights the right to be registered and to have a name and a nationality at birth and, insofar as possible, the right to know one's parents and be cared for by them (art. 7). These rights are also embodied in Act No. 19.968, on family courts, which establishes the best interests of the child or adolescent and his or her right to be heard as one of the guiding principles of family court proceedings (art. 16). The stated aim of the Act is to guarantee all children and adolescents in the national territory the exercise and full and effective enjoyment of their rights and guarantees.

Article 19

Living independently and being included in the community

104. All the legal provisions cited thus far as well as the policies, measures and action taken in Chile with regard to disabilities are in line with the principles of autonomous living, universal accessibility, universal design, intersectoral cooperation, participation and social dialogue: these are the guiding principles for the implementation and interpretation of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act.

105. The culture change advocated in article 21 of the Act — i.e., shifting from a biomedical model to a biopsychosocial one in keeping with the recommendations of the World Health Organization — led to the adoption of a comprehensive rehabilitation model with a community-based component. The Ministry of Health's Comprehensive Rehabilitation Programme and the SENADIS Community Rehabilitation Centres Support Programme have been in operation since 2007, with the latter programme currently focusing on the physical problems of self-reliant, independent adults and older persons. According to figures from December 2011 (Support Networks Management Division, Ministry of Health), each year some 90,000 cases are handled out of a possible universe of

750,000 people covered by the country's health-care scheme; 162,087 individual and family consultations take place; 25,253 comprehensive home visits are conducted with families; 150,533 group and community information sessions are held; and 2,306 community activities are organized, with most establishments carrying out participatory assessments and workplans with community-based organizations.

106. The system currently consists of 143 community rehabilitation centres, 96 comprehensive rehabilitation centres and 19 rural units, as well as 60 community hospitals that have adopted the community-based rehabilitation strategy. In the metropolitan Santiago area, 150 basic physical medicine and rehabilitation units have been set up in public hospitals; two regional hubs were established, at the Peñablanca and San José de Maipo hospitals; and the Pedro Aguirre Cerda National Rehabilitation Institute was opened. Current capacity provides coverage for 10 per cent of the persons with physical disabilities. Coverage of sensory disabilities will be included once more equipment has been procured and teams have received the necessary training.

107. Family health centres provide care to some 3,920 persons with disabilities. The Ministry of Health is updating the national mental health and psychiatric care plan to add targets for the reduction of mental disabilities by 2020, as defined in the national health strategy objectives for the period 2012–2020.

108. SENADIS and the Ministry of Social Development are formulating a national policy for the care of dependent persons with disabilities, seeking to promote quality of life and individual autonomy through residential, non-residential and home-care programmes. The policy is being designed with active involvement by community organizations and cross-sectoral working groups of the Government.

Article 20

Personal mobility

109. One of the key goals of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act is for the target group to achieve the autonomy needed to participate in daily life and perform everyday tasks. To this end, it focuses on action that helps persons with disabilities regain functionality, compensate for the loss of functionality, promote inclusion in the labour market and in education and improve interaction with their surroundings. Various provisions expand on this principle, such as article 8 (necessary accommodation (para. 4)), title IV (on ensuring equality of opportunities; accessibility measures) and the provisions on prevention and rehabilitation. Furthermore, article 23 places responsibility with the State, through its competent institutions, for defining and taking affirmative action geared towards eliminating architectural barriers and promoting universal accessibility.

110. The Act contains measures to promote awareness and the availability and use of support devices and technologies designed for use by persons with disabilities in habilitation and rehabilitation activities. These include encouraging the design of accessible work processes, technologies, products and services and disseminating their use (art. 43, para. (b)); mandating that public libraries should have accessible materials, infrastructure and technologies, including facilities, necessary accommodation and support services, for persons with sensory disabilities (art. 27); and exempting from all import duties certain goods and components intended for use by persons with disabilities and for their safety, support for communication, transportation, mobility, rehabilitation, care and hygiene, as well as the technical aids and components needed by SENADIS in order to provide its support services (art. 49).

Article 21

Freedom of expression and opinion, and access to information

111. This right is realized primarily through rules and measures on the accessibility of information and communications (discussed earlier under article 9 of the Convention), in particular the recognition of sign language as the deaf community's natural means of communication (art. 26 of the Act). In addition, the Office of the Under-Secretary for Telecommunications has adopted a policy on universal access to telecommunications services, which consists of the following elements:

(a) The technical standards for the provision of public telephone services issued by the Office (Exempt Resolution No. 316 of 10 March 2000), which regulate the public telephone services provided for persons with disabilities. Public telecommunication service providers and carriers are required to make a certain percentage of specially equipped telephones available in public areas for use by persons with a physical disability or hearing or visual impairment. These telephones must meet minimum height standards; be located in areas where persons with disabilities can circulate and near stairways, elevators or lobbies; meet height, access and size standards, in the case of telephone booths; have volume adjusters; be compatible with personal hearing aid systems, such as individual electronic amplifiers; have alphanumeric keyboards and viewers or screens enabling users to read both outgoing and incoming messages; provide digital or written instructions in Spanish; and have visual aid systems, such as keyboards and signs in Braille;

(b) The cooperation agreement signed in 2009 by the Ministry of Transport and Telecommunications and the Ministry of Housing and Town Planning regarding public computer centres financed by the Telecommunications Development Fund, which mandates that such centres be accessible to persons with disabilities and sets minimum accessibility conditions. For each network of community computer centres, concessionaires must have available a kit that includes trackball computer mice, keyboard overlays and touch screens, to facilitate access for persons with disabilities;

(c) Article 25, paragraph 2, of the Act, which stipulates that all State-funded public service campaigns as well as electoral propaganda, presidential debates and national television or audiovisual channels shall be transmitted or broadcast with closed captioning and sign language interpreting. In broad terms, article 19, paragraph 12, of the Constitution establishes the right to express an opinion without prior censorship, irrespective of the person expressing the opinion.

Article 22

Respect for privacy

112. Article 19, paragraph 4, of the Constitution guarantees this right to everyone, without distinction, stipulating that the privacy and reputation of individuals and families shall be respected and protected.

113. Sensitive information contained in patients' medical files may not be divulged without their informed consent. Article 2, paragraph (g), of Act No. 19.628, on the protection of privacy (28 August 1999), defines sensitive data as personal information regarding an individual's physical or emotional traits or relating to events and circumstances of his or her personal life, such as personal habits, racial origin, ideology, political opinions, religious beliefs or convictions, physical and psychological condition and sex life.

114. Regarding the protection of privacy, correspondence and personal reputation, the Criminal Code defines a range of offences but does not distinguish between victims on the basis of disability inasmuch as the provisions apply to everyone.

Article 23

Respect for home and the family

115. Article 19, paragraph 5, of the Constitution guarantees everyone the inviolability of the home and of all forms of private communication. Article 21 of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act enshrines the right of all persons with disabilities to rehabilitation, taking into account the role of families and caregivers in that process. According to the 2004 national study on disability, 1,549,342 of the country's 4,481,391 households included a person with disabilities; in other words, approximately one third (34.6 per cent) of households have at least one member with a disability.

116. In terms of guaranteeing that the right of persons with disabilities and their families to make decisions and participate in the treatment process is respected, the habilitation and rehabilitation services provided under the biopsychosocial model constitute voluntary assistance. Under no circumstances is assistance forced upon persons with disabilities or their families; this principle is contained in the relevant technical guidance and is linked to informed consent as part of an agreed course of treatment.

117. SENAME operates foster care, or foster family, programmes that benefit children with disabilities without discrimination. These programmes provide an alternate family setting for children deprived of parental care, including children with disabilities. Chile has a total capacity for 3,252 foster care placements, with foster families receiving on average Ch\$ 133,490 per child per month. Of these placements, 128 are occupied by children with disabilities in Regions V and VIII (projects run by the Coanil Foundation).³¹

118. The technical guidance for the centres and programmes falling under the Adolescent Criminal Responsibility Act (Act No. 20.084; *Diario Oficial*, 7 December 2005) provides specific instructions for working with the families of all juvenile offenders. This includes investigating all situations where minors, with or without disabilities, have been concealed, abandoned, neglected or discriminated against. Of the 232 juveniles with disabilities involved in criminal offences under this law between 2007 and 2011, 12 reported lacking family support (i.e., had been abandoned), 3 lived in the streets and 10 had extensive socialization in the streets.

119. The oversight strategy for 2012 was to include a mandatory assessment of measures to protect minors, with or without disabilities, against abandonment, concealment or discrimination by their families. There are plans to step up deinstitutionalization over the next three years (2013) and to return minors to their families or place them with foster families, at residential centres or in local networks, such as the non-residential services provided by SENAME or at the community level.

³¹ A private non-profit foundation that provides education services nationwide to children, adolescents and adults with intellectual disabilities.

Article 24 Education

The legislative framework of the Equal Opportunities and Social Inclusion of Persons with Disabilities Act

120. Paragraph 2 of the Act contains the following provisions regarding the education of persons with disabilities and their inclusion in schools:

(a) The State must guarantee that persons with disabilities have access to regular public and private educational establishments or, where applicable, to special educational establishments that receive State subsidies or support. A special subsidy allows families to choose between special or regular educational approaches for their children;

(b) Schools offering preschool, primary or secondary education must have an organized plan for students with special educational needs and are to encourage teachers, teaching assistants and other education staff to take part in those plans. Significant progress has been made in the inclusion of students with disability-related special educational needs in primary and secondary education. Concerning early childhood education, the Children and Disabilities Task Force has set up networks to provide tailored education solutions for children aged 0–6 years;

(c) Regular educational establishments must adjust curricula, infrastructure and support materials as may be necessary to enable and facilitate the access of persons with disabilities to existing courses and levels. They are to provide any additional resources needed to ensure that these students remain in and progress through school; for this, the State will have to reorganize the system of education subsidies or take other measures. For over a decade, Chile has been providing a special subsidy to regular schools that have inclusive education projects in place;

(d) Instruments for measuring the quality of education should be adjusted as necessary to accommodate participation by students with special educational needs. For example, since 2009 the Education Quality Measurement System (SIMCE), which evaluates student performance as a measure of the quality of education, has included students with visual and hearing impairments enrolled in special schools and in regular schools with inclusive education projects. In 2010, a version of the university admission examination (used by universities to select students) was piloted for students with hearing and visual impairments and was to be repeated in 2012;

(e) Higher education establishments are to take steps to facilitate access by persons with disabilities, including to study materials and learning tools, so that they may pursue vocational degrees. The Ministry of Education is promoting the implementation of the Act through regulations to gradually create conditions that will be conducive to the inclusion of students with disabilities in tertiary education;

(f) Students having an illness or condition that requires them to remain in a specialized centre or such other place as their attending physician may recommend, or who are undergoing treatment on an outpatient basis, must be able to continue to receive an education. The State provides a special subsidy for children and adolescents who need to receive instruction while in hospital. Over time, it may also become possible to offer educational services to students with disabilities in their homes;

(g) Educational establishments will have to gradually take steps, within the two years following the publication of the Act, i.e. by 10 February 2012, to ensure respect for the linguistic differences of persons with sensory disabilities, whether deaf, blind or deaf and blind, in primary, secondary and higher education with a view to enabling them to access, remain in and progress through the education system. Regarding Chilean Sign

Language, SENADIS is working with civil society and higher education institutions to develop a methodology for the accreditation of sign language interpreters and teachers in order to progressively achieve professionalization of the field.

121. The significance of the right to education is reflected in the findings of the 2004 national study on disability. Some 10 per cent of persons with disabilities have not completed a single year of education, 42 per cent have not completed primary education, only 13 per cent have completed secondary education and a mere 5.7 per cent have been admitted to a university or vocational training institute. Less than 1 per cent have completed a technical training programme.

Students with special educational needs

122. Since 2006, students with disabilities who complete a course of study at a special school or school with inclusive education projects have been issued a primary education certificate (required for entering the labour market) or a competency certificate. To date, more than 500 students with permanent special educational needs have received such certificates.

123. Ministry of Education Decree No. 29 of 9 April 2005 established the procedures for payment of the special subsidy for students with disabilities in secondary education, thus enabling these students to pursue their studies continuously from primary education onward. Act No. 20.201 of 31 July 2007, on new regulations for special education subsidies, increased the subsidy for full-day educational establishments catering to students with special educational needs. In 2009, this benefit was extended to regular establishments that admit children with disabilities. The Act also introduced measures to ensure transparency in the assessment of students and eligibility for in-hospital learning, removed the three-month minimum hospital stay requirement and extended coverage to include students in pre-primary and secondary education. In addition, customs duties were lifted for special pedagogical equipment and materials for the education, skills training and recreation of persons with disabilities (art. 49).

124. As a cross-cutting feature of the education system, students with special educational needs and their families have the following range of options that promote equality: (a) regular schools with inclusive education projects for students with language disabilities or disorders; (b) regular schools with differentiated groups for students with non-disability-related learning difficulties (temporary special educational needs); (c) special schools that cater to students with sensory, intellectual, motor, interpersonal or communication disabilities or specific language disorders; and (d) in-hospital classrooms and schools for children and adolescents who, for reasons of illness, cannot attend their usual school and thus receive instruction in hospital.

The national special education policy of 2006

125. The overall objective of the national special education policy of 2006 is to uphold the right to education, the right to equal opportunities, the right to participate and the right to non-discrimination of persons with special educational needs and to ensure their full access to, integration in and progression through the education system. Its strategy is to create new and improved conditions so that regular and special educational establishments can offer better educational solutions to students with special educational needs. Efforts have so far been made with a view to (a) expanding access to education; (b) improving the curriculum and school management; (c) enhancing school inclusiveness and the consideration of diversity; (d) strengthening special schools; (e) encouraging the involvement of families, schools and communities; (f) improving the initial training and work of teachers and education professionals in special and regular education; and (g)

increasing funding for special education. More detailed information about these actions is provided in the following paragraphs.

Access to education

126. The policy grants a subsidy for temporary special educational needs to students with any of the following deficiencies or disabilities: (a) specific learning disorder; (b) specific language disorder; (c) attention deficit disorder, with or without hyperactivity, or hyperkinetic disorder; and (d) intellectual quotient test results in the borderline range, with significant limitations in adaptive behaviour. These students receive assistance in their regular school, which is to have an inclusive education project or programme approved by the Ministry of Education. As set forth in Ministry of Education Decree No. 170 of 25 February 2010, having such a project or programme ensures the delivery of the necessary support for specific educational needs and helps to keep a deficiency from becoming a disability.

127. Education system access and retention rates for children, adolescents and adults with permanent or temporary special educational needs have improved steadily in special schools and regular schools having inclusive education projects or programmes (see table 2). Some 30,000 additional students will benefit from this educational assistance in the 2011 academic year.

Table 2

Enrolment in the past five years

<i>Year</i>	<i>Special schools</i>	<i>Regular schools with inclusive education projects</i>
2006	113 534	48 948
2007	123 895	55 090
2008	132 612	64 351
2009	143 907	72 032
2010	152 452	76 876

Curriculum and school management

128. The Education Act (Act No. 20.370; *Diario Oficial*, 12 September 2009) defines special or differentiated education as the education subsystem that operates across all levels, in both regular and special educational establishments, to provide a set of services, human and technical resources, specialized knowledge and support for the various temporary or permanent special educational needs that students may experience during their studies as the result of a specific learning difficulty or deficiency.

129. The Act also provides that the Ministry of Education is to establish criteria and issue guidance on curriculum adjustments so that educational establishments, be they special schools or regular schools with inclusive education projects, can plan relevant and good quality educational services for their students. With a view to gradually making the Chilean education system more inclusive, the Ministry is drafting a decree that will situate in context the educational effort for special education at special schools and regular schools having inclusive education projects. This represents a milestone in special education, given that the previous legislation (the Constitutional Act on Education) made only passing reference to such education.

Education and work

130. The Education for Life and Work Programme has been developed and piloted for students in vocational streams at special schools and regular schools having inclusive education projects. The programme strengthens life-skills and job-skills training for young people with disabilities to help them transition to professional life. The following texts were distributed at 150 secondary schools and 20 primary schools: (a) a situational analysis of job-skills and life-skills training for students with intellectual disabilities; (b) the experience of integrated secondary schools with supporting the transition to adult life; (c) a mini-library of special education resources was delivered to 18 establishments that took part in the Transition to Adult Life project. Furthermore, a strategic alliance was established with the Tacal Foundation, a civil society organization, to provide job-skills training to students with disability-related special educational needs from special schools and regular schools having inclusive education projects.

School inclusiveness and strengthening of special schools

131. Diversity and special educational needs have been included in the education and teaching plans of regular schools. Over 4,300 establishments currently cater for such needs through special projects or schools.

132. Professional support is available at schools to provide comprehensive assistance for students with special educational needs. Collaboration is encouraged between classroom teachers and other special-education teaching and non-teaching staff by ensuring that their schedules include time for the systematic and continuous planning, organization, implementation and assessment of the education process.³² These activities are carried out as part of inclusive education projects and the disability-specific services provided by special schools.

133. Refresher training is provided for teachers and staff in special schools that cater to students with visual or hearing impairments, intellectual disabilities, autism or multiple challenges. Special schools have been equipped with educational tools, such as customized textbooks and didactic resources, and can serve as resource centres to support school inclusiveness. The information, counselling and support provided to families of students with special educational needs have been enhanced so that families may exercise their right to choose the most appropriate educational solution for their children and actively participate in the education process. In addition, special schools have joined the Enlaces digital education network and enjoy access to computer laboratories and programme offerings, including software and hardware for students with special educational needs. Lastly, parents have been encouraged to become involved in decisions regarding curriculum adjustments and their children's education and assessments.

134. In recent years, the support networks for families and disabled persons' organizations have been strengthened. A number of initiatives have been launched to share information on available education services so that families may make an informed decision regarding the best option for their children. Workshops have also been held to consult with and inform disabled persons' organizations about the various issues linked to the roll-out of the special education policy. To raise diversity awareness at schools, inclusive education projects are allocated resources on the basis of the number of enrolled students with special educational needs.

³² Decree No. 179 of the Ministry of Education, pursuant to the Education Act (Act No. 20.370) of 12 September 2009.

Teacher and staff training and special education funding

135. Specialized refresher courses have been held to give teachers at special schools the skills to properly attend to students with severe or multiple disabilities. The Special Education Unit, the Centre for Refresher Training, Experimentation and Pedagogical Research (CPEIP) and the coordinating body of Enlaces have provided important upgrading and training for teachers and other professionals working with students having special educational needs. The following outputs are worth special mention: (a) an e-learning course on education, diversity and persons with special educational needs, offered by Universidad Central de Chile in 2007 and 2008; (b) basic preschool curricula for teachers in special preschools, designed by the Pontifical Catholic University of Chile and the University of Concepción; (c) a joint Enlaces-CPEIP course on information and communications technologies and pedagogical strategies for students with visual impairments; and (d) a joint Enlaces-CPEIP course on the use of information and communications technologies to teach students with attention deficit disorders.

136. Ever since the special education policy was launched, the State has systematically worked with universities and vocational institutes offering teacher training with a view to sharing the task of training the number of teachers needed. Steps taken have included ensuring that curricula provide content and strategies for teaching a diverse audience; and the establishment of 10 regional networks for inclusive higher education, with the objective of eliminating barriers and strengthening strategies by incorporating topics related to teaching students with disabilities. Moreover, between 2007 and 2011, SENADIS awarded over 230 projects to higher education institutions in order to gradually give students with disabilities equal opportunity to access, remain in and graduate from higher education.

137. Regarding the budget, the special education subsidy has grown steadily in recent years, with a concomitant expansion in coverage. In 2008, there was 15 per cent growth in the subsidy; the amount was increased by 100 per cent and the benefit was expanded to cover a total of six disabilities, including severe mental disability, autism and severe dysphasia. In 2010, this subsidy was granted to 6,810 students.

Early childhood education

138. The National Kindergartens Board (JUNJI) has been operating a programme with support from the German Agency for Technical Cooperation to provide free early education to children aged 0 to 6 years. The programme has posted significant progress, as measured by the following four indicators: quality, coverage, family involvement and policies.

Indicator 1: Quality

139. The learning outcomes of 40 per cent of the preschool children with special educational needs assessed by JUNJI had improved in the final evaluation of 2009. A number of actions had made that possible: (a) recruitment of specialized staff in each region, with 41 special education teachers hired nationwide (2008 and 2009); and provision of skills training in inclusive education through three national training events for special education teachers, preschool teachers with supervisory duties and vice-principals responsible for technical matters. The regional teams then replicated the training for their respective technical teams and educational units; (b) use of teaching materials that promote inclusive education at educational units and programmes in accordance with the principle of universal design; and application of the methodology (adjusted where necessary) for assessing the learning of children with special educational needs by reason of disability. A learning assessment tool that will allow for curricular adjustments to be made for each indicator is currently being validated after a second trial period; and (c) adoption of an inclusive education approach in the JUNJI-defined curriculum. Inclusive education is the

hallmark of the new core curriculum (January 2010), which includes specific text on inclusive education.

140. As part of its strategic output,³³ SENADIS awarded between 2007 and 2011 a total of 142 educational projects to JUNJI-operated kindergartens and 64 projects to the Integra Foundation through national competitions for inclusive education projects. The ultimate aim of these awards is to channel additional resources to students with disabilities so that they can meet their educational needs, while creating conditions for them to have equal access to the curriculum.

Indicator 2: Coverage

141. The coverage of preschool children with disabilities increased by 5 per cent between 2007 and 2008 and by a further 15 per cent in 2009. The increase in coverage between 2007 and 2008 was in line with commitments made in that regard. According to the alternative data collection system, the number of children with special educational needs rose by 11.2 per cent between 2007 and 2008 (from 1,453 to 1,616). The number of preschoolers with special educational needs in 2009 (2,157) was 33 per cent higher than in 2008, and in 2010 rose a further 25 per cent (2,703).

142. Table 3 below provides country-level data on coverage disaggregated by disability:

Table 3

Coverage by type of disability

<i>Year</i>	<i>Intellectual</i>	<i>Visual</i>	<i>Auditory</i>	<i>Motor</i>	<i>Severe communication disorder</i>	<i>Multiple</i>	<i>Speech disorder</i>	<i>Children with special educational needs</i>
2007	177	95	36	170	74	0	901	1 453
2008	153	57	18	264	109	94	921	1 616
2009	238	83	49	456	99	85	1 147	2 157
2010	284	97	59	601	88	100	1 474	2 703

Source: Technical Pedagogical Department, JUNJI Curricular Division, Ministry of Education.

Indicator 3: Family involvement

143. By the end of 2009, at least one adult primary caregiver or relative of 50 per cent of preschool children with disabilities had taken part in activities to strengthen parenting skills. In 2008, JUNJI and the United Nations Children's Fund (UNICEF) published and disseminated a handbook for parents containing guidance on raising a family. Under a cooperation agreement between the two bodies, job-skills training continued to be provided to families in five regions of the country. Strategies to promote more active involvement by families in their children's education and thereby strengthen parenting skills have been launched in all regions.

Indicator 4: Policies

144. Late in 2009, JUNJI adopted an inclusive preschool education model that emphasizes coordination of public and private action in support of inclusive education. Various activities have been undertaken that will enable the creation of a national team to

³³ The projects, which are awarded to educational institutions at all levels, are part of the strategic output of SENADIS and aim to provide resources, offer training in inclusive education to the various stakeholders and lend support to families, all with a view to strengthening the inclusion process.

oversee this area and review the institution's progress. Every JUNJI regional office has a regional team to address the special educational needs of children.

145. As part of the roll-out of the Ministry of Social Development's social protection system Chile Grows with You,³⁴ an intersectoral working group was set up to address the issue of children with special educational needs. Public-sector services were identified and categorized, so that they could be made available to children with developmental delays. The range of programmes on offer includes stimulation rooms, libraries and teaching materials.

146. There has been a steady increase in the number of projects carried out by SENADIS: in 2008, there were 9 projects in 3 regions of the country; in 2009, 38 in 10 regions; in 2010, 43 in 9 regions; and in 2011, 53 in 14 regions.

147. According to aggregate data from JUNJI and the Teletón Foundation, enrolment in their programmes has increased in all regions, rising from 560 children in 2009 to 1,402 in 2010.

148. In 2007, with a view to the formulation of an inclusive preschool education model or policy, a survey was conducted at JUNJI-operated facilities to establish the baseline conditions of access to infrastructure and the curriculum for children with special educational needs. Qualitative information has also been gathered on the status of inclusion at kindergartens through observation and interviews; feedback on inclusive educational units has been systematized; and texts and books have been published on inclusive preschool education and successful experiences with inclusion at kindergartens and educational programmes under the purview of JUNJI.

149. SENADIS, for its part, has set up a task force of institutions that provide support for children with special educational needs aged 0 to 6 years. The members of the task force are JUNJI, the Integra Foundation, SENAME, the Teletón Foundation, the Pedro Aguirre Cerda National Rehabilitation Institute, the Ministry of Education and the National Student Assistance Board (JUNAEB). With the aim of strengthening inclusive education in mainstream settings, the task force is mandated to coordinate and ensure the optimal use of the physical and human resources provided by the State and private institutions for early support and comprehensive development of children up to age 6 who have special educational needs associated with disabilities or developmental delays. In line with this intersectoral strategy, 16 centres (one per region and two in Santiago) have been established and allocated support services, and funds were transferred to recruit professionals to provide appropriate assistance according to the children's educational needs.

Article 25

Health

150. As noted previously, article 1 of the Constitution establishes that all persons are born free and equal in dignity and rights. Article 19, paragraph 9, guarantees the right to health care, stipulating that the State is responsible for ensuring free and equal access to actions for the promotion, protection and recovery of health and for individual rehabilitation.

151. Against that backdrop, the Universal Access with Explicit Guarantees (AUGE) health-care plan was expanded to cover certain treatments related to physical and mental disabilities. The plan's potential universe of coverage is some 780,000 patients with

³⁴ This comprehensive early childhood support system is intended to provide comprehensive support, protection and guidance to children and their families through a wide range of activities and services, with special assistance for the most vulnerable according to level of need.

physical disabilities. Since July 2005, the AUGE plan has included hearing screenings for premature babies born at less than 1,500 grams or 32 weeks' gestation, screening for retinopathy and bronchopulmonary dysplasia, monitoring of hip dysplasia for all children and, as a public health measure, the provision of folic acid to prevent dysraphia.

152. In collaboration with the Institute for Nutrition and Food Technology of the University of Chile, two programmes have been launched to prevent mental retardation from phenylketonuria and hypothyroidism in newborns.

153. With regard to the prevention of disabilities in adults and the elderly, the country's primary care programmes include screening for and early treatment of presbycusis and presbyopia, in addition to a preventive medical examination for the elderly.

154. In 2000, the Ministry of Health, the Ministry of Justice and SENAME signed a technical cooperation agreement aimed at ensuring appropriate public health care for all adolescents and children living in residential homes and centres operated directly by SENAME. In line with a set of intersectoral technical recommendations, SENAME provides guidance and coordination for regional and local-level health-care services.

Article 26

Habilitation and rehabilitation

155. The overarching purpose of the Equal Opportunities and Inclusion of Persons with Disabilities Act is to give persons with disabilities the autonomy to participate in day-to-day life and perform basic tasks. Article 21 explicitly mentions actions that provide or restore functionality, compensate for loss of functionality, foster job market or educational inclusion and enhance the interaction of persons with disabilities with their surroundings. The Act sets forth the right of all persons with disabilities to rehabilitation, bearing in mind the role of the family and caregivers in this regard in accordance with the recommendations of the fifty-eighth World Health Assembly (May 2005). In its article 22, the adoption of a community-based rehabilitation model is recommended.

156. The Comprehensive Rehabilitation Programme has been expanded and updated in line with the Convention. Rehabilitation services having a biopsychosocial focus and a community-based element have grown in number, as have the community rehabilitation centres and rural units providing free and universal primary health care. To date, 143 community rehabilitation centres and 96 comprehensive rehabilitation centres have been set up; an additional 60 community hospitals around the country are pursuing a community-based rehabilitation (CBR) strategy, with coverage now standing at 51 per cent of communes. Eighteen rural units have been established to work in sparsely populated areas, with coverage averaging eight rural communes each; and the San José de Maipo Hospital and the Pedro Aguirre Cerda National Rehabilitation Institute have been strengthened, with the premises of the latter still needing to be refurbished. Primary health care facilities and low-complexity hospitals have also been upgraded with new equipment. A total of 153 low-complexity hospitals have adopted the CBR strategy, which includes the progressive incorporation of the biopsychosocial model (Health-Care Network Management Division, 2010). The CBR strategy is built around mobilizing community resources to provide care and support for persons with disabilities and offering rehabilitation services to treat disabilities as well as prevent their root causes.

157. Some 14,000 caretakers of persons confined to bed currently receive a special government allowance. Extent of the coverage varies, but it exists at all levels of care in both urban and rural areas. The care recipients are mainly adults and the elderly, although children and adolescents can be included depending on local demand.

158. Another key strategy has been the disability-related explicit health-care guarantees. Over the past three years, the number of persons availing themselves of this coverage for pathologies directly affecting the musculoskeletal system (mild and moderate osteoarthritis of the knee and hip) has increased by 58.2 per cent (rising from 61,641 to 105,855). That figure does not include persons who received coverage for causes primarily affecting other systems, e.g., strokes, traumatic brain injuries, multiple trauma, hip replacements and assistive devices. In view of this shift, it has been necessary to design rehabilitation components for gradual incorporation into clinical practice handbooks and care regimens and to formulate individual treatment plans.

159. With the establishment of the AUGE health-care plan and its explicit health-care guarantees, coverage now includes the biomedical components of sensory disabilities, specifically hearing disabilities. For instance, the AUGE clinical handbook on bilateral sensorineural hearing loss in premature babies (Ministry of Health, 2009) contains guidelines for diagnosis, use of assistive devices (such as hearing aids and cochlear implants) and initial rehabilitation. The handbook on bilateral hearing loss in persons over 65 who require a hearing aid (Ministry of Health, 2007) contains similar guidance.

160. The National Health Fund/Ministry of Health launched a cochlear implant programme in 2003 that provides technical assistance and rehabilitation to persons under 65 with profound sensorineural hearing loss. Funding has been provided for some 20 cases per year.

161. With regard to visual disabilities, the 2009 clinical handbook on prevention of retinopathy in premature babies contains guidelines for the diagnosis and early treatment of this condition, which is also covered under the AUGE plan.

162. In addition, the diagnostic capacity of equipment at the network's community rehabilitation centres (104 to date) has been undergoing strengthening since 2007.

163. The shift from a biomedical to a biopsychosocial model as provided for in the Equal Opportunities and Social Inclusion of Persons with Disabilities Act has been reflected as well in training programmes and in the national mental health and psychiatric care plan. Regulations began to be adopted in 2003, such as the containment measures for mental health patients suffering from psychomotor agitation, and training activities were organized for health workers between 2007 and 2010.

164. In terms of guaranteeing that the right of persons with disabilities and their families to make decisions and participate in the treatment process is respected, the habilitation and rehabilitation services provided under the biopsychosocial model constitute voluntary assistance, as indicated earlier. Under no circumstances is assistance forced upon persons with disabilities or their families; this principle is contained in the relevant technical guidance and is linked to informed consent as part of an agreed course of treatment.

165. At present, 400 rehabilitation professionals have received training in the biopsychosocial model. This training is available through the various health services' training plans, the programme facilities in place at the communal level and directly through the Ministry of Health.

Article 27

Work and employment

166. In accordance with the definitions and principles set out in the Equal Opportunities and Social Inclusion of Persons with Disabilities Act, the State has a duty to recognize the right of persons with disabilities to employment and to an inclusive workplace under equal conditions and without discrimination. By extension, this entails the right to earn a living

through work freely chosen or accepted in a labour market as well as a work environment that is open, inclusive and accessible.

167. In its article 43, the Act establishes that the State, through its competent bodies, shall promote and take affirmative action to foster the inclusion and non-discrimination of persons with disabilities in employment. In particular, it is to (a) encourage and disseminate inclusive and non-discriminatory working practices; (b) promote the design and widespread implementation of accessible workplace procedures, technologies, products and services; (c) set up and operate employment access programmes for persons with disabilities, either directly or through for-profit or non-profit natural or legal persons; and (d) disseminate the International Labour Organization-endorsed legal instruments and recommendations on the employment of persons with disabilities.

168. Article 44 goes on to establish that the State is to create conditions for, and subsequently ensure, labour-market insertion and access to social security benefits for persons with disabilities. To that end, it may offer — directly or through third parties — plans, programmes and incentives and create instruments to promote the hiring of persons with disabilities for permanent jobs. The Ministry of Labour and Social Security is to report every six months on the operation and outcomes of existing programmes to the labour and social security committees of the Chamber of Deputies and the Senate. The information is to be published on the Ministry's website semi-annually and is also to be made available on the SENADIS website.

169. Article 45 of the Act stipulates that the State and its agencies, the municipalities, the National Congress, the judiciary and the Public Prosecution Service shall give preference in staff selection procedures to persons with disabilities when candidates are of equal merit. The Ministry of Social Development (formerly the Ministry of Planning and Cooperation) and the Ministry of Finance would issue regulations to define how State agencies should give effect to this provision. In the case of the judiciary, the legislature and the Public Prosecution Service, this determination would be made by their own internal governance bodies.

170. In article 46 it is stipulated that job training for persons with disabilities should include — in addition to skills training — career counselling, with due consideration given for the person's real abilities, level of education and interests.

171. To ensure that reasonable accommodation is provided for persons with disabilities in the workplace, the Act mandated that this be reflected in the by-laws and health and safety regulations of all companies having 10 or more employees. Article 154 (7) of the Labour Code was subsequently amended to require that by-laws contain specific rules for different kinds of work in accordance with the age and sex of employees, as well as all necessary reasonable accommodation and support services to enable workers with disabilities to perform their tasks appropriately.

172. A number of legal provisions have been enacted or amended to promote the inclusion of persons with disabilities in the labour market. They include the following:

(a) Apprenticeship contracts are a special kind of employment contract that is regulated by the Labour Code and can be entered into only by persons under the age of 21. Pursuant to article 47 of the Act, persons with disabilities may enter into such contracts regardless of their age;

(b) In accordance with the code of good labour practices and non-discrimination applicable to the national civil service, special consideration is given in all recruitment processes to applicants having a physical disability that impedes their use of any screening tools. The Public Criminal Defender Service, for instance, has adopted internal policies and arrangements to ensure equal access to the position of public criminal defender.

Specifically, the technical aptitude test was made available in Braille; special provisions were made for persons with disabilities to take the test, such as allowing extra time; and arrangements were made for persons with visual disabilities. The Service's human resources department is currently working on specific policies in the area of selection and recruitment;

(c) As to employment and entrepreneurship, municipalities are authorized to offer space free of charge to persons with disabilities operating a business at authorized open-air markets. Where no such markets exist, municipalities may set aside commercial premises, free of charge, for the establishment of small and medium-sized enterprises operated by persons with disabilities;

(d) The State can also promote the employment of persons with disabilities in the area of public procurement. By virtue of its size and importance (3.5 per cent of gross domestic product), the government sector can make a decisive contribution to the inclusion of this group in the labour market. Accordingly, Act No. 19.886, on public procurement specifications, grants special incentives for government contractors whose staff includes persons with disabilities. For instance, companies whose regular workforce includes a set percentage (3 or 5 per cent) or number of persons with disabilities receive additional points when their bid is evaluated (5 per cent);

(e) Under existing safeguards to protect workers with disabilities from wrongful dismissal and forced or compulsory labour as set forth in article 2 of the Labour Code, any form of discrimination among workers is classified as a violation of labour law. This is in line with relevant international norms, in particular the ILO Convention concerning Discrimination in Respect of Employment and Occupation (No. 111), which was ratified by Chile on 20 September 1970;

(f) With regard to the availability of different work modalities (e.g., on-site work, telecommuting and subcontracting) and the opportunities offered by new information technologies, the Labour Code was recently amended to introduce a new distance-work or telecommuting contract. This arrangement entails providing services from one's home or a place other than the company's or employer's premises, freely chosen by the worker and agreed upon by the parties, and with all the benefits granted under the Labour Code to other workers, such as the right to collective bargaining, day-care facilities and social security coverage;

(g) Among the measures adopted to retain employees who, as the result of a workplace accident, are left with a disability that prevents them from performing their assigned tasks, the insurance scheme for work accidents covers all medical care necessary for the complete rehabilitation of the worker, including training in a new area;

(h) The case law of the judiciary and the Labour Affairs Directorate has been clear in maintaining that the prohibition against discrimination is far-reaching and extends beyond the list established by law. Disability is included as one of the prohibited grounds for discrimination, inasmuch as the legal concept adopts the constitutional approach prohibiting any discrimination not based on personal skills or capability, in addition to the relevant international norms contained in ILO Convention No. 111 and in force in Chile;

(i) Act No. 20,087 of January 2006, replacing the procedure established in Book V of the Labour Code, introduced a procedure for protecting the constitutional rights of workers with regard to the inviolability of all forms of private communication, the freedom to work and the right to free choice of employment, establishing that it would apply as well to the discriminatory acts referred to in article 2 of the Code. Workers are protected against reprisal by means of the oversight performed by the Labour Affairs Directorate; they may also bring legal action in this regard.

173. The following policies and programmes have been implemented to promote the inclusion of persons with disabilities in public and private entities on an equal basis with others:

(a) A recruitment bonus programme was established under the Office of the Under-Secretary for Labour by the Annual Budget Act and offers subsidies to companies that opt to hire jobless persons, including funds for training new hires. With specific reference to persons with disabilities and members of vulnerable or priority groups, the National Training and Employment Service (SENCE) provides, in collaboration with the Office of the Under-Secretary for Labour and SENADIS, a training grant for workers with disabilities hired by a company. For 2009, provision had been made for some 300 persons having some degree of disability to benefit from the programme. The actual number of recipients that year was 32. The amount of the bonus was raised from 40 per cent in 2010 to 80 per cent in 2011. For 2010, provision was made for up to 150 persons having some degree of disability and registered in a SENADIS programme. In 2011, the percentage was again increased as were the training funds, specifically for SENADIS;

(b) The SENCE Social Programmes Department offers training for vulnerable groups and groups who have difficulty joining the labour market, such as young people, the elderly and women heads of household; this includes a large number of persons with disabilities. Under a tax rebate arrangement, companies may allocate 1 per cent of their tax liability to training employees; if the set-aside funds are not used, they are transferred to SENCE where they are channelled into training for vulnerable groups. The Teletón Foundation and the Coanil Foundation were among those seeking out these services and whose training plans were selected in 2010.

(c) The SENADIS Job Placement Programme takes a proactive approach to managing employment. According to data for the period 2002–2009, a total of 10,104 persons were registered; of them, 7,842 were employable and, of those, 1,306 were successfully placed with a company. As at 30 December 2010, a total of 168 persons with disabilities had found work under this programme. Most of the jobs available are at the assistant or manual labour level and are paid at minimum wage. Moreover, there is a significant gender gap, as women accounted for only 33 per cent of placements (67 per cent were men). This is a clear indicator that women face greater difficulties in being considered for competitive jobs on an equal footing. As to the degree of disability, most were mild or moderate; only 19 per cent were persons with severe disabilities, mainly hearing disabilities.

Various factors interfere with the job market insertion and employability of persons with disabilities, including but not limited to social and business prejudices, weak professional qualifications and level of education, continued presence of architectural barriers that prevent access to the workplace and general reluctance by some companies.

The Job Placement Programme has been in operation since 2002, providing an alternative to independent job hunting for workers with disabilities and promoting job opportunities for them. In table 4 below, the information gathered on placements over the past three years has been disaggregated by region, sex, contract type (fixed-term, indefinite, project/job-specific etc.), disability and job type.

Table 4
Job placement by region and sex

2009			2010			2011					
Region	Women	Men	Total	Region	Women	Men	Total	Region	Women	Men	Total
I	67	39	106	I	2	13	15	I	11	18	29
II	11	33	44	II	10	25	35	II	8	13	21
III	4	5	9	III	1	4	5	III	1	5	6
IV	5	9	14	IV	4	8	12	IV	2	3	5
V	1	1	2	V		2	2	V	4	6	10
VI	3	5	8	VI	4	5	9	VI	5	4	9
VII				VII	1	2	3	VII			
VIII				VIII	1		1	VIII	7	8	15
IX	3	18	21	IX	4	24	28	IX	3	23	26
X		1	1	X	8	10	18	X	8	13	21
XI	3	7	10	XI	6	5	11	XI	3	11	14
XII	9	10	19	XII	8	6	14	XII	7	9	16
XIV		4	4	XIV				XIV	3	4	7
XV	1	2	3	XV	1	2	3	XV	2	8	10
Greater Santiago	11	21	32	Greater Santiago	24	21	45	Greater Santiago	19	25	44
Total	118	155	273	Total	74	127	201	Total	83	150	233

As can be seen in table 4, in 2009 a total of 118 women with disabilities were placed in jobs, or 43.2 per cent. In 2010, the number was 74, or 35.3 per cent; and in 2011, it was 83, equal to 35.6 per cent of the total placements made that year. The programme is currently being evaluated with a view to incorporating information on the duration and quality of the employment created;

(d) The national competition for projects to include persons with disabilities in the job market is funded through the SENADIS Access to Work Programme, which promotes initiatives to bring more persons with disabilities into the job market through employment that is gainful, in the formal sector and with equality of conditions;

(e) The Incluye network, which operates under the auspices of SENADIS, provides participatory and technical coordination of the effort to include persons with disabilities in the labour market. A task force on employment for members of vulnerable groups was set up under the Office of the Under-Secretary for Labour; it will monitor the subsidies provided for the hiring of persons with disabilities. SENADIS lends technical assistance and evaluates the subsidies granted through the Job Placement Programme;

(f) Funding is made available for projects offering access to contractual employment in support of the initiatives launched in that area, such as sheltered workshops, jobs with extended support, social-interest initiatives and job placement activities;

Table 5
National competitive grant fund allocations, 2010 and 2011

(In Chilean pesos)

	<i>Total allocated</i>	<i>Self-employment/micro- entrepreneur modality</i>	<i>Contractual employment modality</i>
2010	437 405 537	380 677 051	56 728 486
2011	345 739 648	311 581 970	34 157 678
	783 145 185	692 259 021	90 886 164

Source: Fonaweb, SENADIS.

(g) SENADIS funds micro-enterprise projects that include a technical support focal point (a professional, technician, university student or other person with management knowledge) who provides support for preparation of the definitive business plan, start-up and monitoring of the business throughout the project, and technical and management advice and training;

(h) In terms of intersectoral action, the Office of the Under-Secretary for Labour, SENCE and SENADIS are collaborating through the technical working group on the employment of members of vulnerable groups to promote the hiring of persons registered with the SENADIS Job Placement Programme. To this end, a pilot project was launched in 2008 for the operation, monitoring and follow-up of the incentives arrangement with the aim, in particular, of providing technical assistance for job placement of persons with disabilities.

174. SENADIS has, in addition, launched a job access programme focusing on women and self-employment, in particular, women with disabilities and/or women heads of household who are the main caregiver for a person with disabilities. Priority and additional points are given to applicants who (a) have a low standard of living according to the national social and economic survey; (b) are enrolled in the Chile Solidario programme; (c) live in a situation of physical or financial dependence; or (d) are members of an indigenous group.

175. The underlying rationale for this initiative stems from the 2004 national study on disability, which found that the labour market participation of women with disabilities is considerably lower than that of non-disabled women and it is also lower than for men with disabilities.

176. Data from the 2004 national study on disability showed that 58.2 per cent of persons with disabilities were women and 41.8 per cent were men. The prevalence of disability among women stood at 14.92 per cent, while for men it was 10.89 per cent. In other words, one in every seven women has a disability, while only one in every nine men does.

177. The programme has been redesigned and, since 2009, competitive grant funds have been used to finance micro-enterprise projects for persons with disabilities. As a result of this expanded coverage, the presence of women business operators with disabilities and of women business operators without disabilities but responsible for a person with disabilities has shown a marked increase, as can be seen in table 6 below:

Table 6

<i>Number of micro-enterprise projects selected and implemented in 2010</i>		
	<i>201</i>	
	<i>Number of persons</i>	<i>Percentage</i>
Number of women applicants awarded grants in 2010	119	59
Women with disabilities	66	55
Women without disabilities but responsible for a person with disabilities	53	45
Total	119	100
Other variables		
Women with disabilities who are members of an ethnic group	6	10.17
Women living in a rural area	17	28.81
Women with disabilities who are a head of household	36	61.02
Total	59	100.00

Article 28**Adequate standard of living and social protection**

178. As stated in its article 1, the purpose of the Equal Opportunities and Inclusion of Persons with Disabilities Act is to ensure the right to equal opportunities for persons with disabilities in order to attain their full social inclusion, guarantee the enjoyment of their rights and eliminate all forms of discrimination on the basis of disability.

179. The Pension Reform Act (Act No. 20.255; *Diario Oficial*, 17 March 2008) entirely revamped the pension system, establishing a tax-funded (non-contributory) disability pension and a disability pension top-up supplement. Persons with disabilities who have low incomes, and are thus in a more vulnerable situation, are among those eligible for this pension. According to the 2004 national study on disability, 39.5 per cent of persons with disabilities fall in the low socioeconomic bracket (817,158 people); more than half fall in the middle bracket (1,145,836 people); and 5.1 per cent fall in the high bracket (105,078 people).

180. Pension system reform brought two major improvements for persons with disabilities. First, the old social assistance pensions (also non-contributory) were replaced by a solidary system offering a higher pension, which increases over time. Second, individual and family income levels no longer have to be below 50 per cent of the minimum pension. This had been a key barrier to access under the previous system; many who were unable to meet this requirement were excluded from the system. Eligibility under the new system rests on certification of the disability and falling within the bracket of the most vulnerable 40 per cent of families. Given the progressive nature of the reform, this percentage will rise to 60 per cent in 2012.

181. As part of the reform, it was established that this pension was compatible with receiving remuneration from work, up to double the minimum monthly income (Ch\$ 364,000 as at 1 July 2011). This provided additional incentive for persons with disabilities to join the labour market.

182. The Pension Reform Act also establishes an allowance for persons under 18 with intellectual disabilities, provided that a number of other legal requirements are met. As of December 2009, a total of 21,306 such allowances had been granted. Another important benefit under the reform is the disability pension top-up supplement, which is a tax-funded monthly payment made to persons with a certified disability who, having contributed to a pension scheme managed by the Social Security Institute, are entitled to a disability pension under that scheme.

183. Act No. 16,744, on workplace accidents and occupational illnesses, establishes pensions for such causes. As of November 2009, a total of 13,716 people were receiving a pension under this heading. By category of pension, 11,530 beneficiaries had partial disability, 1,712 had full disability and 474 had severe disability. The Act also establishes pensions for survivors of persons who die as a result of a workplace accident or occupational illness (19,746 beneficiaries as of November 2009).

184. In addition, the State has launched various programmes to tackle poverty head on, and many of them reflect, directly or indirectly, a disability perspective. The following are some examples:

(a) The Chile Solidario programme, created in 2002, specifically addresses the participation of persons with disabilities. Under its Bridge Programme, families that include a person with a disability are eligible if the disability has been certified by one of the preventive medicine and disability boards and if the individual is registered in the national disability register. Family members with a disability for which rehabilitation exists must take part in a rehabilitation programme, and children with disabilities who are able to study must be enrolled in the regular or special education system;

(b) The Chile Grows with You system, created in 2007, is a comprehensive child protection system designed to provide comprehensive support, protection and guidance to children and their families through a wide range of activities and services, with extra support for especially vulnerable children. Among other benefits, the system promotes closer monitoring of children's health, with particular emphasis on the first two years of life; provides educational material to families in support of early childhood development; organizes workshops and group activities to assist parents in raising their children; offers regular screening for risk factors and developmental delays, taking timely action by way of the special childhood development support fund; and arranges home visits by health workers to children exposed to risk factors;

(c) The online social welfare profile is a stratification tool that determines access to the social protection system by identifying the most vulnerable members of society. It includes variables related to both disability and dependence, which is understood to be a person's level of autonomy and functional ability for purposes of establishing eligibility for benefits, such as disability pensions, technical aids and allowances for intellectual disability.

185. In its work with children and adolescents in residential facilities, including facilities for persons with disabilities, SENAME promotes the use of social welfare profiles for the families. Of the 232 young persons with disabilities who were being handled under the Adolescent Criminal Responsibility Act between 2007 and 2011, 20 were placed in the Chile Solidario programme, 112 were registered with a social welfare profile and 1 was placed in the Chile Grows with You system.

186. In terms of government programmes on employment and the employability of vulnerable population groups, the Social Investment and Solidarity Fund's Social Initiative Support Programme published guidance for self-employment and running a micro-enterprise. The topics addressed included the remuneration, acknowledgement and classification of the work done by persons living in poverty to care for older adults and

children with disabilities in eight regions of the country and Santiago. Coverage was provided to 1,138 users (2007) at an investment of Ch\$ 1.138 billion.

Article 29

Participation in political and public life

187. The participation of persons with disabilities in political life is governed by the country's electoral legislation, including voter registration for blind persons and for persons who are missing their right thumb (or any other finger). At the same time, any Chilean citizen — or foreign national entitled to vote in Chile — may be removed from the electoral roll by reason of insanity, if so communicated by a competent court to the Electoral Service.

188. Voting regulations are observed in the registration process, in the updating of electoral rolls and in elections themselves. According to the electoral roll prepared for the parliamentary elections that took place on 16 December 2001, 2,417 registered voters were blind (0.03 per cent of the total). This figure was substantially lower than the number of eligible voters in Chile with severe visual impairments, who are estimated to number at least 32,000 according to data projections from the 2004 national study on disability.

189. In general, polling stations are appropriately accessible. Non-governmental organizations such as the Red Cross and the Civil Defence Corps offer services and technical resources to assist voters with motor difficulties who have difficulty in reaching polling stations.

190. Act No. 20.183 (*Diario Oficial*, 8 June 2007), amending Constitutional Act No. 18.700, on voting and the right of persons with disabilities to assistance when voting, established the right of such persons to be accompanied all the way to the ballot box, to receive assistance when casting their vote, to have a reasonable amount of time to cast their vote, to be assisted by the polling place official, to be accorded preferential, appropriate access to the polling station, to receive assistance and to freely select the person to provide assistance in casting their ballot and to vote freely (freedom to vote).

191. The Electoral Service has instructed municipalities and local governments to make wheelchairs available at polling stations to facilitate the movement of persons with motor disabilities. The Constitutional Act on Voting establishes that, at every polling station, persons with visual disabilities must be provided with a transparent template that can be placed over the ballot paper, with a groove next to each name or question put to a referendum so that voters can mark their choice. The template has edges allowing it to be fixed onto the ballot paper in such a way that the grooves and lines are aligned.³⁵

Article 30

Participation in cultural life, recreation, leisure and sport

192. The Equal Opportunities and Inclusion of Persons with Disabilities Act contains regulations guaranteeing access to centres of cultural or recreational importance. Similarly, the participation of persons with disabilities in cultural life, recreation, leisure and sport is addressed in the Sports Act (Act No. 19.712) and legislation on cultural matters.

³⁵ Subsequently, on 31 January 2012, Act No. 20.568 was adopted establishing regulations on automatic registration, modifying the Electoral Service and modernizing the voting system. Individuals are now no longer required to complete the registration procedure inasmuch as it is done automatically. This represents an improvement in the situation of persons with disabilities by ensuring more equal access to voting.

193. SENAME has been collaborating with the National Sports Institute in this sphere since 2008. Beginning in 2010, children and adolescents with disabilities who live in residential facilities have been included in programmes offered by the Institute, namely its football camps and Young People on the Move initiative. Some 50 children and adolescents with disabilities currently participate in the programmes.

194. With regard to restrictions on copyright, the Intellectual Property Act (Act No. 17.336; *Diario Oficial*, 2 October 1970), as amended by Act No. 20.435 (*Diario Oficial*, 4 May 2010), introduced the following exception in favour of persons with disabilities (article 71 (c)):

It is permitted by law, without providing remuneration or obtaining the permission of the owner, to reproduce, adapt, distribute or communicate to the public a legally published work for the benefit of persons with visual, auditory or other disabilities that prevent them from accessing the work under normal conditions, provided that such use is directly related to the disability in question, that it is carried out through a procedure or means designed to compensate for the disability and that it is for non-commercial purposes.

It shall be stated explicitly in the copies that they were created under the exception set forth in the present article and that it is prohibited to distribute or make them available for any purpose to persons who do not have the disability in question.

IV. Specific obligations

Article 31

Statistics and data collection

195. To access the services and benefits established in the Equal Opportunities and Inclusion of Persons with Disabilities Act, persons with disabilities must be certified by one of the preventive medicine and disability boards and registered in the national disability register. As an exception, for the payment and delivery of services and technical aids required by children under 6 years of age, the diagnosis of the attending physician and presentation of a treatment plan shall suffice.

196. Since the completion of the 2004 national study on disability, Chile has had a modern database of disability statistics that includes relevant information on the situation of persons with disabilities. These statistics are aligned with applicable standards, which allows for comparability at the international level.

197. The statistical information available up to that date displayed vast discrepancies, thus creating a statistical dilemma. The differences were owed to the various definitions of disability used and the variety of methodologies used in measurements. Until then, only severe forms of disability or impairment had been recorded, and in most cases it had been done by asking just one question.

198. The most recent census, conducted in 2002, included questions on total and severe disabilities, finding as a result that 2.2 per cent of the population (334,377 people) had one or more such disabilities. The census methodology considered persons with disabilities to be all persons who indicated that they were totally blind, totally deaf, mute, paralysed or that they had an intellectual disability.

199. The 2003 national social and economic survey, on the other hand, indicated that 3.6 per cent of the population (565,913 people) had at least one disability. Persons were

considered to be in that category if they declared that they had a hearing, visual, speech, intellectual, physical or mental impairment (i.e., a severe or moderate disability).

200. According to the 2009 national social and economic survey, 7.6 per cent of the population (1,254,949 people) declared that they had a long-standing medical condition, such as blindness or difficulty seeing even with glasses, deafness or difficulty hearing even with a hearing aid, muteness or speech difficulties, physical and/or mobility difficulties, mental or intellectual difficulties and psychological or psychiatric difficulties. Through a set of questions designed to measure the degree of disability, the breakdown of the population was as follows: able to act autonomously (5 per cent), mild disability (1.4 per cent), moderate disability (0.7 per cent), severe or debilitating disability (0.4 per cent) and no disability (92.5 per cent).

201. The third tool used to measure the prevalence of disability in Chile was the Ministry of Health's health and living standards survey, which was developed in conjunction with the National Statistics Institute in 2000. The survey included seven questions on difficulty in performing day-to-day activities and yielded a finding quite different from previous surveys, namely 21.7 per cent of the population, or 3,292,296 people, had some form of disability. Account was taken of sensory and speech disabilities in carrying out daily activities, as well as disabilities requiring the use of a prosthesis. This survey contributed enormously to enhancing knowledge about persons with disability, as it took a more dynamic approach linked to the impact that a poor state of health can have in terms of the difficulties experienced in performing daily activities. At the same time, it revealed a larger population of persons with moderate disabilities and a huge number of permanent and temporary mild disabilities that had been statistically invisible previously.

202. The purpose of the 2004 national study on disability was therefore to determine the prevalence of disabilities of varying types and degrees and the extent to which such conditions affected people in the various facets of their lives. According to the study, 12.9 per cent of the population has some kind of disability (2,068,072 people). In other words, 13 in every 100 people (or 1 in 8) have a disability.

203. The main variables considered were (a) general description of the disability; (b) sociodemographic and socioeconomic characteristics; (c) health status and impairments; (d) difficulties in carrying out daily activities, constraints on social participation, access to health and rehabilitation services, and the situation with regard to rights; and (e) free time, existence of ill-treatment, social, family and technical support, and physical and attitudinal barriers.

204. The conceptual definition and data collection tool used for the survey were based on the International Classification of Functioning, Disability and Health (ICF) approved by WHO and the Pan American Health Organization in 2001. In the light of those criteria, the evaluation, assessment and classification of disabilities were refined, as were the studies and data collection methodologies. Disabilities needed to be classified uniformly throughout the country; for this, the conceptual basis of the ICF model — as the standard classification tool — was adapted to create a tool to assess in a community setting the performance of day-to-day activities by persons with disabilities. The disability certification system was updated in line with the new Act, and regulations on the classification and certification of disabilities and the corresponding manual are being prepared. The methodology and instruments would be applied progressively starting in the last quarter of 2011.

205. A major step forward in ensuring equality in the exercise of all the rights recognized in the Convention has been the implementation of the project to monitor, evaluate and strengthen decentralized policies for the social inclusion of persons with disabilities. The project outputs will be an inclusion ranking and a "seal of compliance", a national disability

plan for the period 2010–2018 and fine-tuning of the various national statistical tools to reflect the disability perspective effectively.

206. As indicated above, SENADIS launched the second national study on disability in 2011 and expected to complete it in 2012. The study will provide nationwide statistics on, and analysis of, prevalence, categories, causes, severity, level of dependence and access gaps faced by persons with disabilities in the areas of health, education, work, accessibility of the physical environment, communications and information.

207. The second study's principle objectives include (a) the statistical projection of the first national study on disability (2004–2010); (b) setting up working groups for the national social and economic survey and the national census to draft new questions on disability, based on the ICF criteria and in fulfilment of the obligations assumed by Chile under the agreement of the Washington Group on Disability Statistics regarding census questions; (c) digitizing the information on the certificates issued by the preventive medicine and disability boards to create a database of individual statistics on persons with disabilities, pathologies, and level of health and impairments, on the basis of which an integrated disability database can be set up; (d) designing and implementing an integrated disability database with input from, inter alia, the national study on disability, the national social and economic survey, the national census and the health and living standards survey of the Ministry of Health; (e) empanelling statistical working groups to validate the findings of the second national study on disability, in conjunction with, inter alia, the National Statistics Institute, the Ministry of Health, the Pan American Health Organization and the Economic Commission for Latin America and the Caribbean; and (f) designing, publishing and disseminating the second national study on disability.

Article 32

International cooperation

208. Since the 1990s, Chile has received significant support from international cooperation to further its work in the area of disabilities. In this connection, the cooperation provided by the Government of Japan merits special mention. For more than 15 years, Japan has supported disability prevention and rehabilitation efforts through the Chilean Ministry of Health and FONADIS (now SENADIS), and this has had a considerable impact in the public sector. One of the main contributions has been the technical assistance offered to national teams regarding disability care models. It also collaborated closely on the 2004 national study on disability.

209. Also noteworthy is the cooperation programme between the European Union and the Chilean International Cooperation Agency in support of the project to monitor, evaluate and strengthen decentralized policies for the social inclusion of persons with disabilities in Chile. The project was launched in 2010 and will run until the end of 2013. Its general objective is to increase the social participation and enjoyment of rights by persons with disabilities by eliminating the barriers and restrictions that society has created vis-à-vis the performance of their day-to-day activities and their social inclusion. The lines of action are geared towards:

(a) Supplying country-level statistics on, and analysis of, prevalence, categories, causes, access gaps and other topics of interest relating to disabilities through the design, publication and dissemination of the second national study on disability;

(b) Defining a national action plan for the social inclusion of persons with disabilities that incorporates public policies and sectoral commitments in support of this group, in accordance with the guidelines set out in the national disability policy. This will be achieved through the design, implementation and monitoring of the 2012–2020 national

action plan, which will be submitted for review by the Committee of Ministers for Disability Affairs³⁶ and the Consultative Council on Disability, as established in the Equal Opportunities and Inclusion of Persons with Disabilities Act;

(c) Developing and applying tools to ascertain and evaluate the actual status of inclusion at public and private entities. In this regard, SENADIS has launched the Chilean Seal of Inclusion programme, which encourages the adoption of good practices that foster the social inclusion of persons with disabilities at private companies and government agencies; awarding of this certification will bring public recognition and distinction.

210. International cooperation has also played an important role in the area of rehabilitation, particularly through the international course on rehabilitation policies and programmes. The first cycle ran from 2006 to 2010 and provided training in the design of habilitation and rehabilitation policies and programmes to 98 professionals from 16 Latin American and Caribbean countries. The second cycle, currently in preparation, will be offered between 2012 and 2015.

211. The following international cooperation programmes and projects were carried out with the participation of the Ministry of Health: (a) in Costa Rica, the National Rehabilitation Centre incorporated the biopsychosocial model of care; (b) in Paraguay, the early intervention model and services were strengthened at 4 of the 17 early intervention centres; and (c) in Bolivia, degree programmes in phonoaudiology and occupational therapy were introduced at Universidad Mayor de San Andrés.

212. In addition, the Andean Health System–Hipólito Unanue Convention has organized a programme of activities to commemorate the 40 years of joint work carried out by the ministries of health of Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela (Bolivarian Republic of). Its commission for the prevention of disabilities and the treatment, habilitation and rehabilitation of persons with disabilities has formulated an Andean policy on this issue, which was approved at the meeting of Andean health ministers held in November 2010 and welcomed at the summit of deputy ministers of the Americas, held in Quito, Ecuador, in December 2010. Lastly, it should be mentioned that Chile is a member of the Latin American Network for Community-Based Rehabilitation.

Article 33

National implementation and monitoring

213. As indicated previously, SENADIS is the government agency responsible for promoting equal opportunities, social inclusion, participation and accessibility for persons with disabilities. Among its other assigned functions, it is to ensure compliance with legislation on the protection of rights of persons with disabilities. In this respect, one of its main strategic objectives is to provide advice on and take part in the formulation of public policy on persons with disabilities in line with the national disability policy, the Equal Opportunities and Inclusion of Persons with Disabilities Act and the Convention.

214. SENADIS, which is linked to the Office of the President of the Republic through the Ministry of Social Development, oversees coordination of national disability policy under the auspices of the Interministerial Committee on Social Development (which replaced the Committee of Ministers for Disability Affairs). It receives support as well from the Consultative Council on Disability.³⁷ The Consultative Council, which is in the process of

³⁶ Now the Interministerial Committee on Social Development.

³⁷ The by-laws were approved by Ministry of Planning and Cooperation Decree No. 141 (*Diario Oficial*, 12 May 2012), which can be consulted at: www.senadis.gob.cl/descargas/centro/legislacion_nacional/Reglamento--Funcionamiento-Consejo-Consultivo-Discapacidad.pdf.

being established, is part of the SENADIS structure. Its main functions are (a) to participate in formulating and updating the national disability policy and action plan; (b) to submit recommendations for the awarding of competitive projects; (c) to serve as a consultative and support body for SENADIS; (d) to make recommendations on evaluation, selection and monitoring criteria and procedures for competitive projects; and (e) to receive regular reports on SENADIS performance and the attainment of its goals.

215. In addition, SENADIS provides countrywide monitoring through an intersectoral network that includes entities from the public, private and non-profit sectors. The network fosters the creation of strategic alliances intended to advance the social inclusion of persons with disabilities in terms of culture, access to the physical environment, sport and recreation, education and employment so that persons with disabilities can exercise their rights.

216. At the international level, SENADIS is the body responsible for following disability issues in international forums; it does so working in coordination with the Human Rights Directorate of the Ministry of Foreign Affairs. Currently, it offers an international relations programme to help monitor compliance with the Convention, and it participates in official meetings of the United Nations, the Organization of American States and MERCOSUR, in addition to meetings on inter-American and international technical cooperation.

217. Lastly, attention is drawn to the bill to establish the Office of the Under-Secretary for Human Rights within the Ministry of Justice. The Office will serve as the government body responsible for coordinating all State efforts in the field of human rights, as these are currently spread among various departments. It will also be responsible for formulating plans, programmes, decisions and actions to promote and protect human rights. The legislation's main objective is to set up an interministerial committee, whose first task would be to draft a national human rights plan. The bill was submitted to the Senate on 19 March 2012 for priority consideration and is in its first reading (Bulletin No. 8207-07).³⁸ This new office will help to strengthen and fine-tune national and international coordination in areas under the purview of SENADIS.

³⁸ On the bill to establish the Office of the Under-Secretary for Human Rights and amend the Ministry of Justice Act.