



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of
Discrimination against Women**

Fiftieth session

Geneva, 3 – 21 October 2011

**Concluding observations of the Committee on the
Elimination of Discrimination against Women**

Montenegro

1. The Committee considered the initial report of Montenegro (CEDAW/C/MNE/1) at its 1002nd and 1003rd meetings on 6 October 2011 (CEDAW/C/SR.1002 and 1003). The Committee's list of issues and questions is contained in CEDAW/C/MNE/Q/1, and the responses of the Government of Montenegro are contained in CEDAW/C/MNE/Q/1/Add.1.

A. Introduction

2. The Committee expresses its appreciation to the State party for its initial report, which was detailed and generally followed the Committee's guidelines for the preparation of reports. However, it regrets that the report was overdue and lacked sex-disaggregated statistics and qualitative data on the situation of women in a number of areas covered by the Convention, in particular in respect of women from disadvantaged groups. The Committee expresses its appreciation to the State party for its written replies to the list of issues and questions raised by the Committee's pre-session working group, and the frank responses to the questions posed orally by the Committee.

3. The Committee commends the State party for its delegation, which was headed by the Deputy Minister for Human and Minority Rights of Montenegro, and which included representatives of different Government Ministries and departments. The Committee appreciates the constructive dialogue that took place between the delegation and the members of the Committee, while noting that some questions were not answered.

B. Positive aspects

4. The Committee welcomes the adoption, since the entry into force of the Convention for the State party, of several legislative measures aimed at eliminating discrimination against women, including:

- (a) The Law on Gender Equality (2007) which prohibits discrimination based on sex and provides for measures to promote equal opportunities for women and men in all spheres of public life;
- (b) The Law on the Prohibition of Discrimination (2010) which defines and prohibits direct and indirect discrimination based on sex, sexual orientation, gender identity and other grounds, provides for remedies, and strengthens the protection role of the Protector of Human Rights and Freedoms (Ombudsman) in relation to discrimination;
- (c) The Law on the Protector of Human Rights and Freedoms (2011) which designates the Ombudsman Institution as the mechanism for the prevention and protection against discrimination and includes gender equality among its main responsibilities;
- (d) The Law on Protection from Family Violence (2010) which provides for temporary and permanent protection orders for victims of domestic violence;
- (e) The 2010 amendment to article 444 of the Criminal Code specifically criminalizing trafficking in human beings in line with the Palermo Protocol and prohibiting the use of the services of a victim of trafficking;
- (f) The Law on Foreigners (No. 82/08 and 72/09) which, in article 51, stipulates that temporary residence permits can be granted to foreigners who are victims of trafficking or of organized crime, and provides for witness protection; and
- (g) The Law on Free Legal Aid due to enter into force on 1 January 2012.

5. The Committee notes with appreciation the adoption of various institutional and policy measures aimed at advancing women's rights, including:

- (a) The establishment of local gender equality structures in 10 out of 21 municipalities, including councils for gender equality in 8 municipalities, and the adoption of local action plans for achieving gender equality in 6 of those municipalities;
- (b) The National Strategy for the Fight against Trafficking in Human Beings and the Action Plan for the implementation of the Strategy for the period 2010-2011; and
- (c) The appointment of a coordinator for the fight against trafficking in the Police Directorate directly cooperating with the Government Office for the Fight against Trafficking in Human Beings.

C. Principal areas of concern and recommendations

6. The Committee recalls the obligation of the State party to systematically and continuously implement all the provisions of the Convention and views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on actions taken and results achieved in its next periodic report. The Committee calls upon the State party to submit the present concluding observations to all relevant ministries and government departments, to the Parliament of Montenegro, as well as to the judiciary, so as to ensure their full implementation.

Parliament

7. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on

all branches of the State apparatus. It invites the State party to encourage its Parliament, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the State party's next reporting process under the Convention.

Visibility of the Convention, the Optional Protocol and the Committee's general recommendations

8. The Committee notes with concern that while the Convention forms an integral part of and takes precedence over the domestic law of the State party, in legal practice, it has not been given sufficient visibility as the legal basis for measures, including legislation and policy measures, for the elimination of all forms of discrimination against women and the promotion of gender equality in the State party. The Committee notes the absence of information about court proceedings where provisions of the Convention were directly invoked or applied, which indicates a continuing lack of awareness among women themselves and among the judiciary and legal professions about the rights of women under the Convention and its Optional Protocol, as well as about the Committee's general recommendations, which have not been translated into Montenegrin.

9. The Committee recommends that the State party:

(a) **Base its efforts to eliminate discrimination against women on the Convention as a legally binding women's human rights instrument;**

(a) **Ensure that the Convention and its Optional Protocol, as well as the Committee's general recommendations and its views on individual communications, are made an integral part of the training for judges, lawyers, prosecutors, police and other law enforcement officers, with a view to enabling them to directly apply and interpret national legal provisions in light of the Convention; and**

(c) **Continue raising awareness among women about their rights under the Convention as well as about the communications and inquiry procedures provided by its Optional Protocol, including by translating the Committee's general recommendations and its views under the Optional Protocol into Montenegrin.**

National Action Plan

10. The Committee notes with concern that the National Action Plan for the Achievement of Gender Equality (2008-2012) lacks specific measures for the implementation of the Convention.

11. The Committee recommends that the State party include the implementation of the Convention and of the Committee's recommendations among the criteria for evaluating the implementation of the National Action Plan for the Achievement of Gender Equality.

Legal complaint mechanisms

12. While welcoming the new Law on the Prohibition of Discrimination, the Committee notes the low number of complaints about discrimination based on sex submitted by women to the Protector of Human Rights and Freedoms under the Law on the Prohibition of Discrimination.

13. The Committee recommends that the State party:

(a) **Further strengthen the mandate and resources of the Protector for Human Rights and Freedoms to act on complaints about discrimination based on sex, and appoint a Deputy Ombudsperson for Gender Equality;**

(b) **Ensure sufficient financial and human resources for the Protector of Human Rights and Freedoms and encourage it to apply to the International Coordinating Committee of National Human Rights Institutions (ICC) for accreditation, in line with the Paris Principles (General Assembly resolution 48/134 of 20 December 1993, annex) and General Assembly Resolution 65/207;**

(c) **Raise awareness about the complaint procedures under the Law on Gender Equality and the Law on the Prohibition of Discrimination and ensure their compatibility; and**

(c) **Provide information in its next periodic report on the number of complaints about sex-based discrimination lodged with the Protector for Human Rights and Freedoms, and on their outcome.**

National machinery for the advancement of women

14. The Committee is concerned about the limited financial and human resources of the Gender Equality Department (GED) within the Ministry for Human and Minority Rights. It notes that a majority of municipalities have still not signed cooperation agreements with the GED for the establishment of local gender equality structures or adopted local action plans for gender equality. The Committee is also concerned at reports that the implementation of the Law on Gender Equality and the national as well as local gender equality plans is slow and that women's NGOs are not effectively involved in their implementation and monitoring.

15. The Committee, recalling its general recommendation No. 6 (1988) and the guidance provided in the Beijing Platform for Action on the necessary conditions for the effective functioning of national mechanisms, recommends that the State party:

(a) **Further increase the visibility of women's rights by raising the GED to the highest level within the organizational structure of the Ministry of Human and Minority Rights and strengthen the financial and human resources of the GED to enhance its capacity to formulate, implement, provide advice on, coordinate and monitor the preparation and implementation of legislation and policy measures in the field of gender equality;**

(b) **Allocate adequate funds to all municipalities to enable them to establish their own gender equality structures and adopt and effectively implement local gender equality plans; and**

(c) **Strengthen the cooperation with women's NGOs in implementing and monitoring the implementation of the Convention and the Law on Gender Equality and the national and local gender equality plans and provide funding for relevant activities of those NGOs.**

Stereotypes and discriminatory practices

16. The Committee is concerned about the persistence of stereotypes concerning the roles and responsibilities of women and men in the family and in society, which over-emphasize the traditional role of women as mothers and wives and that of men as heads of the family, undermine women's social status and hamper their equal participation in political and economic life. It is also concerned about sex-discriminatory statements by politicians and that the media often convey stereotyped and sometimes degrading images of women or fail to comply with their obligation under article 4 of the Law on Gender Equality to use gender-sensitive language.

17. The Committee calls on the State party to:

(a) **Adopt pro-active and sustained measures, targeted at women and men, girls and boys, to overcome stereotypical attitudes about the roles and responsibilities of women and men in the family and in society, in particular in areas where women are in the most disadvantaged position;**

(b) **Intensify its cooperation with civil society and women's organizations, Parliamentarians, education professionals, the private sector, and the media in order to disseminate targeted information to the general public and to decision-makers, journalists, women and the youth; develop a comprehensive strategy across all sectors to eliminate gender stereotypes, including images of women focusing excessively on maternal attributes; and promote images of women active in economic and social life and of equal responsibilities of women and men in the private and public spheres; and**

(c) **Effectively enforce the Law on Gender Equality and encourage private and public media to adopt professional codes of ethics.**

Violence against women

18. While noting the adoption of the Law on Protection from Family Violence, the Committee is concerned about the high incidence of domestic and sexual violence against women and girls; its underreporting; the lack of prosecutions, the limited use of protection orders; the lenient sentences imposed on perpetrators; the fact that marital rape is subject to private rather than ex officio prosecution; the absence of State-run shelters and psycho-social rehabilitation; the limited support for NGOs providing assistance to women victims of violence; and the lack of research and disaggregated data on violence against women.

19. Recalling its general recommendation No. 19 (1992) on violence against women, the Committee urges the State party to:

(a) **Ensure that all reports of domestic and sexual violence against women and girls are effectively investigated and that perpetrators are prosecuted and sentenced commensurate with the gravity of their crimes;**

(b) **Provide mandatory training to judges, prosecutors and police officers on standardized procedures for dealing with victims in a gender-sensitive manner and on the application of protection orders under the Law on Protection against Family Violence, expedite the adoption of implementing regulations under the Law, and identify any gaps in the application of protection orders in criminal proceedings;**

(c) **Provide adequate assistance and protection to women victims of violence, especially psycho-social rehabilitation and an adequate number of shelter facilities funded by the State party, as well as funding for NGOs that assist victims;**

(d) **Conduct research and collect comprehensive statistical data on violence against women, disaggregated by sex, age and relationship between the victim and perpetrator and carry out an in-depth analysis of the research and statistical data and utilize them to design policies and measures to combat violence against women; and**

(e) **Set a time frame for ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011).**

Trafficking and exploitation of prostitution

20. While noting that the State party gives high priority to combating trafficking in human beings, in particular women and children, the Committee is concerned about the low number of prosecutions and the lenient sentences imposed on traffickers; the limited capacity of the competent authorities to identify (potential) victims of trafficking, including women and girls from vulnerable groups; and the lack of victim protection and

compensation. It notes that the State party cooperates with only very few NGOs in implementing the National Strategy and the Action Plan for the Fight against Trafficking in Human Beings.

21. The Committee recommends that the State party:

(a) Review its sentencing policy in trafficking cases and provide mandatory training for judges, prosecutors, and police officers on the appropriate application of article 444 of the Criminal Code and of relevant provisions on witness protection in the Criminal Procedure Code and the Witness Protection Law;

(b) Intensify training for immigration and other law enforcement officials on early identification of (potential) victims of trafficking, with a special focus on women and girls who are particularly vulnerable to trafficking such as Roma, Ashkali and Egyptian (RAE) women, displaced women, and unaccompanied or street girls;

(c) Expedite efforts to establish a national mechanism for compensating victims of trafficking and strengthen programmes for their reintegration into society;

(d) Broaden the cooperation with NGOs in implementing and monitoring the National Strategy for the Fight against Trafficking in Human Beings and the related Action Plan and provide funding for anti-trafficking activities of NGOs;

(e) Provide information in its next periodic report on the number of temporary residence permits granted to trafficking victims, including where those victims are unwilling or unable to cooperate with the prosecution authorities; and

(f) Further intensify efforts to combat sexual exploitation of girls and boys.

Participation in political and public life

22. While noting the recent adoption of the Law for the Election of Councillors and Representatives providing for a 30-percent quota for women candidates on political parties' electoral lists, the Committee regrets that the Law does not require that every third rank on a list be given to a woman candidate. It notes with concern that women are significantly underrepresented in Parliament (9 out of 81 MPs), Parliamentary Committees (no women on the Committees for Security and Defence and for Economy, Finance and Budget), the Cabinet (1 out of 17 Ministers), municipal councils (92 out of 632 councillors), town halls (1 out of 21 mayors), leadership positions and internal bodies of political parties, and in senior positions in the judiciary and in the public service, including in female-dominated sectors such as education, where the vast majority of school principals are men.

23. The Committee recommends that the State party:

(a) Review the 30-percent quota in the Electoral Law to ensure that in each group of three candidates, at least one candidate is a woman on political parties' electoral lists;

(b) Introduce legislative measures and procedures for the implementation of article 10 of the Law on Gender Equality, including provisions on the rejection of proposals for appointments that do not comply with the principle of gender-balanced representation, unless there are justifiable reasons for exemption from this principle;

(c) Adopt other temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 (2004), such as a gender parity system for appointments and accelerated recruitment of women in the public service, especially in senior positions;

(d) Remove discriminatory practices and address cultural barriers that prevent women from moving into decision-making and management positions in the

education sector and so ensure proportionate representation of women and men in principal positions;

(e) Provide incentives for political parties to nominate equal numbers of women and men as candidates and harmonize their statutes with the Law on Gender Equality, e.g. through party financing and by encouraging broadcasting media to allocate extra time to those parties during electoral campaigns; and

(f) Create an enabling environment for political participation of women, including Roma, Ashkali and Egyptian women, e.g. by adequately funding campaigns of women candidates, educating young women leaders, and strengthening women's wings of political parties.

Education

24. The Committee notes with concern that women and girls are under-represented in traditionally male-dominated fields of studies, including in post-graduate programmes, such as engineering and information technology, and that they are concentrated in traditionally female-dominated fields.

25. The Committee recommends that the State party intensify efforts aimed at diversifying academic and vocational choices for women and men and take further measures to encourage women and men to choose non-traditional fields of education and careers.

26. While noting the State party's efforts to include Roma, Ashkali and Egyptian (RAE) children in formal education, the Committee is concerned about the low enrolment and high drop-out rates of RAE girls at the primary and secondary levels, patriarchal attitudes of RAE parents towards education of girls, as well as reports on gaps in the quality of education provided in schools in RAE majority areas and on racial discrimination, abuse and harassment of RAE girls and boys by non-RAE children and teachers. It also notes with concern the extremely low number of RAE women and girls in higher education.

27. The Committee recommends that the State party:

(a) Adopt further temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 (2004), to increase enrolment and completion rates of Roma, Ashkali and Egyptian (RAE) girls and boys, as well as the participation of RAE women and girls in higher education;

(b) Train and recruit more RAE teachers, including women, allocate sufficient resources for improving the quality of education in schools in and around the Konik refugee camps, and intensify efforts to integrate RAE children into local schools;

(c) Provide mandatory training to non-RAE teachers on their obligations to report incidents of abuse and harassment of RAE girls and boys and to refrain from such acts;

(d) Continue raising awareness among RAE families about the importance of education for the life and career prospects of girls and provide further incentives to RAE parents to send their daughters to school.

Employment

28. The Committee notes with concern that women are disproportionately affected by unemployment, concentrated in low-paid jobs, often on fixed-term contracts which can be easily terminated in circumvention of their rights to paid maternity leave and to return to

work following childbirth, and under-represented in high-level positions in the public and private sectors. It is also concerned that Roma, Ashkali and Egyptian women are to a large extent excluded from the formal labour market. The Committee is further concerned that the lack of flexible work arrangements, childcare facilities, and special non-transferrable paternity leave forces women into part-time and low-paid work and reinforces the unequal division of family responsibilities between women and men.

29. The Committee recommends that the State party:

(a) Ensure that the Law on Changes to the Labour Law expressly provides for equal remuneration of women and men for work of equal value, protects the rights of women employed on fixed-term contracts to paid maternity leave and to return to work after childbirth, and introduces special non-transferable paternity leave to promote the active participation of fathers in child-raising;

(b) Sensitize employers and employees on flexible work arrangements for women and men and encourage men to make use of such arrangements, further raise awareness about responsible fatherhood, and increase the number and capacity of affordable childcare facilities in all parts of the State party;

(c) Collect sex-disaggregated data on the situation of women and men in the labour market and on the number and outcome of labour inspections, court cases and administrative complaints related to sex-based labour discrimination and sexual harassment, and include such data in its next periodic report; and

(d) Effectively implement existing and adopt additional policies and targeted measures with time-bound targets and indicators to achieve substantive equality of men and women in the labour market, promote employment of women, including Roma, Ashkali and Egyptian women, eliminate occupational segregation, and close the gender wage gap.

Health

30. The Committee is concerned about the low prevalence of contraceptives and inadequate access to sexual and reproductive health services and information, especially for disabled women, Roma, Ashkali and Egyptian women and displaced/refugee women, in particular in rural areas. It also notes with concern that education on sexual and reproductive health and rights at the secondary level is only optional.

31. By reference to its general recommendation No. 24 (1999), the Committee calls on the State party to:

(a) Ensure that all women and girls, including women with disabilities, Roma, Ashkali and Egyptian women, and displaced/refugee women, have free and adequate access to contraceptives, sexual and reproductive health services and information in accessible formats, including in rural areas;

(b) Raise awareness, through education campaigns, enhanced counselling services and the media, about the importance of using contraceptives for family planning and the prevention of sexually transmitted diseases, including HIV/AIDS; and

(c) Include mandatory education on sexual and reproductive health and rights in the regular school curricula at the secondary level.

Family benefits

32. The Committee is concerned about the low levels of family benefits and the lack of support programmes for single mothers and their children, who are specifically vulnerable to discrimination and abuse.

33. The Committee calls on the State party to:

(a) Increase, regularly review and adjust the levels of family benefits for single mothers to ensure an adequate standard of living for them and their children; and

(b) Adopt targeted measures and programmes to economically empower single mothers and ensure that they and their children have adequate and affordable access to housing, education, professional training, health care and cultural life, and protect them against discrimination and abuse.

Disadvantaged groups of women

34. The Committee is concerned about multiple forms of discrimination against Roma, Ashkali and Egyptian (RAE) women, the lack of birth registration or proof of such registration of many local and displaced/refugee RAE women placing them and their children at a risk of statelessness, and the lack of basic services and infrastructure in the RAE refugee camps in Konik. It also notes with concern that displaced/refugee women, including many RAE women, face difficulties in accessing the procedure for obtaining permanent residence status under the amended Law on Foreigners and the Strategy for Durable Solutions of Issues Regarding Displaced and Internally Displaced Persons in Montenegro (2011-2015) when they are unable to access certain documents needed to process such status.

35. The Committee recommends that the State party:

(a) Adopt temporary special measures to eliminate multiple forms of discrimination against Roma, Ashkali and Egyptian (RAE) women, including in education, employment and health care, collect disaggregated data on the situation of RAE women, and include such information in its next periodic report;

(b) Effectively implement the Strategy for the Improvement of the Status of the RAE Community in Montenegro (2008-2012) and intensify efforts to improve women's and girls' access to basic services in the RAE refugee camps in Konik;

(c) Strengthen the assistance provided to displaced/refugee women, including RAE women, in civil registration in Montenegro and cooperate with their countries of habitual residence to facilitate access to passports or other documents required for the status of foreigners with permanent residence in the State party; and

(d) Consider ratifying the 1961 Convention on the Reduction of Statelessness.

Marriage and family relations

36. The Committee notes the lack of information on the definition and scope of intangible joint marital property, in particular whether pension and insurance benefits and other career assets form part of the property to be equally divided upon divorce and whether there is any legal mechanism in place to compensate for economic disparities between spouses resulting from the existing sex segregation of the labour market and women's greater share in unpaid work.

37. The Committee, recalling its general recommendation No. 21 (1994), recommends that the State party:

(a) Undertake research on the economic consequences of divorce on both spouses, with specific attention to the enhanced human capital and earning potential of male spouses on the basis of their full-time and uninterrupted career pattern, and include information on the outcome of such research in its next periodic report; and

(b) Ensure that the concept of joint marital property extends to intangible property, including pension and insurance benefits and other career assets and that joint property is divided equally regardless of each spouse's individual contribution, and take further legal measures, as needed, so as to compensate for the unequal share of women in unpaid work.

Forced and early marriage

38. The Committee notes with concern that the practice of arranged and forced early marriage is still prevalent within Roma, Ashkali and Egyptian communities, mainly concerning girls and boys aged 14 to 16.

39. The Committee recommends that the State party strengthen its efforts to raise awareness among Roma, Ashkali and Egyptian communities about the prohibition of forced and child marriages, as well as on the harmful effects on girls' mental and reproductive health, and effectively investigate, prosecute and punish cases of forced and early marriage.

Amendment to article 20, paragraph 1, of the Convention

40. The Committee encourages the State party to accelerate the acceptance of the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.

Beijing Declaration and Platform for Action

41. The Committee urges the State party, in the implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.

Dissemination

42. The Committee requests the wide dissemination in Montenegro of the present concluding observations in order to make the people, including Government officials, politicians, Parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure de jure and de facto equality of women and the further steps that are required in that regard. The Committee recommends that dissemination should include dissemination at the local community level. The State party is encouraged to organize a series of meetings to discuss the progress achieved in the implementation of the present observations. The Committee requests the State party to disseminate widely, in particular to women's and human rights organizations, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme "Women 2000: gender equality, development and peace for the twenty-first century".

Ratification of other treaties

43. The Committee notes that the adherence of the State party to the nine major international human rights instruments¹ would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the treaty to which it is not yet a party, i.e., the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Follow-up to concluding observations

44. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 19 and 23 above.

Preparation of the next report

45. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next periodic report and, at the same time, to consult a variety of women's and human rights organizations.

46. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its next periodic report in October 2015.

47. The Committee invites the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents that were approved at the fifth inter-committee meeting of the human rights treaty bodies, in June 2006 (HRI/MC/2006/3 and Corr.1). The treaty-specific reporting guidelines adopted by the Committee at its fortieth session in January 2008 (A/63/38, annex I) must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together, they constitute the harmonized guidelines on reporting under the Convention on the Elimination of All Forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages, while the common core document should not exceed 80 pages.

¹ The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.