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### NEWS REPORT

<b>Country:</b>	<b>Spain</b>
<b>Title:</b>	Proposed draft reform of article 49 of the Constitution, on the rights of persons with disabilities
<b>Date:</b>	14 December 2018
<b>Expert:</b>	Lorenzo Cachón
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Government proposal to reform the article of the Spanish Constitution, regarding the rights of persons with disabilities
<b>Ground of discrimination:</b>	Disability
<b>Source:</b>	Government
<b>Field:</b>	All fields
<b>Applicable law:</b>	Spanish Constitution

### **Content**

**Background:** The Spanish Constitution approved in 1978 included an article (the article 49) to protect people with disabilities. At that time, that was very important and since then a very advanced body of legislation has developed on the basis of that provision, recognising rights and protection of people with disabilities in Spain. But the last 40 years have caused the constitutional text to “age”, as recognised by the Spanish Government. Among other factors due to the approval of the Convention on the Rights of Persons with Disabilities of 2006.

The draft of the Government, adopted on 7 December 2018, aims to reform Article 49 of the Spanish Constitution to adapt it to the 2006 Convention. For this, it presents a radically new wording that modifies the language and structure of the article.

The wording proposed by the Government for article 49 of the Spanish Constitution is based on the work carried out in the Commission for comprehensive disability policies of the Congress of Deputies. Furthermore, the Spanish Committee of Representatives of People with Disabilities (CERMI), which had been demanding this change of orientation in the constitutional text for several years, participated to the drafting.

**Content of the proposal:** In the Government draft, Article 49 of the Spanish Constitution is worded as follows:

1. " Persons with disabilities are holders of the rights and duties set forth in this Title in conditions of real and effective freedom and equality, without discrimination.
2. The public authorities shall carry out the necessary policies to guarantee full personal autonomy and social inclusion of persons with disabilities. These policies will respect their freedom of choice and preferences and will be adopted with the participation of organizations representing persons with disabilities. The specific needs of women and girls with disabilities will be particularly addressed.
3. The reinforced protection of persons with disabilities will be regulated for the full

- exercise of their rights and duties.
4. Persons with disabilities enjoy the protection provided in international agreements that ensure their rights."

**Key points of analysis:** The Government's proposal represents a notable advance in the constitutional consideration of disability for several reasons:

1. It modifies the terminology used in article 49 to refer now to the group of people with disabilities, dignifying this group.
2. It abandons the medical-rehabilitative conception that underlies the 1978 text.
3. It emphasizes the rights and duties of people with disabilities.
4. It establishes objectives to guide the policies of the public powers.
5. The participation of representative organizations of persons with disabilities is included to establish these policies.
6. Special reference is made to the special vulnerability of women and girls with disabilities.
7. The principle of enhanced protection of persons with disabilities is enshrined.
8. Reference is made to international treaties that ensure the rights of persons with disabilities.

The preliminary draft of the Government will pass to the Parliament for its processing and approval, where a great majority could support it. But it remains to be seen whether it is approved in this legislature, given the political instability linked, among other reasons, to that the Government has parliamentary support only from a parliamentary minority.

The approval of the new wording of Article 49 of the Constitution is very positive: although it does not have immediate concrete consequences on the rights of persons with disabilities, it is very important that the text of the Spanish Constitution has that new inspiration based on the Convention on the Rights of Persons with Disabilities of 2006.

**Internet link source:**

<http://www.lamoncloa.gob.es/consejodeministros/referencias/Paginas/2018/refc20181207.aspx>.