
Changes and Current Situation in South Korea after UN CRPD

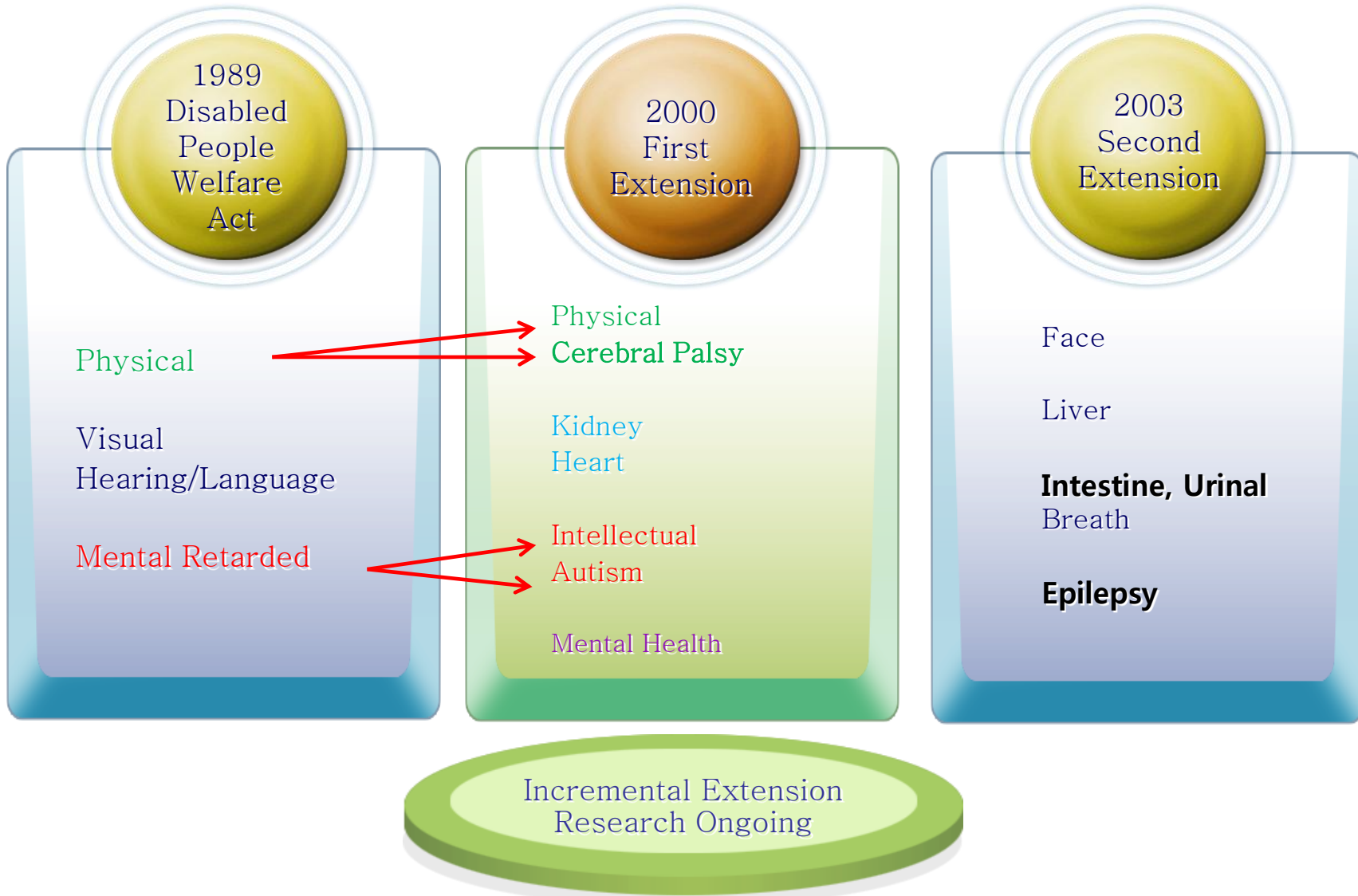
2019. 3. 22(Fri)

Jinwoo KIM

Duksung Women's University

I . General Fact and Frame

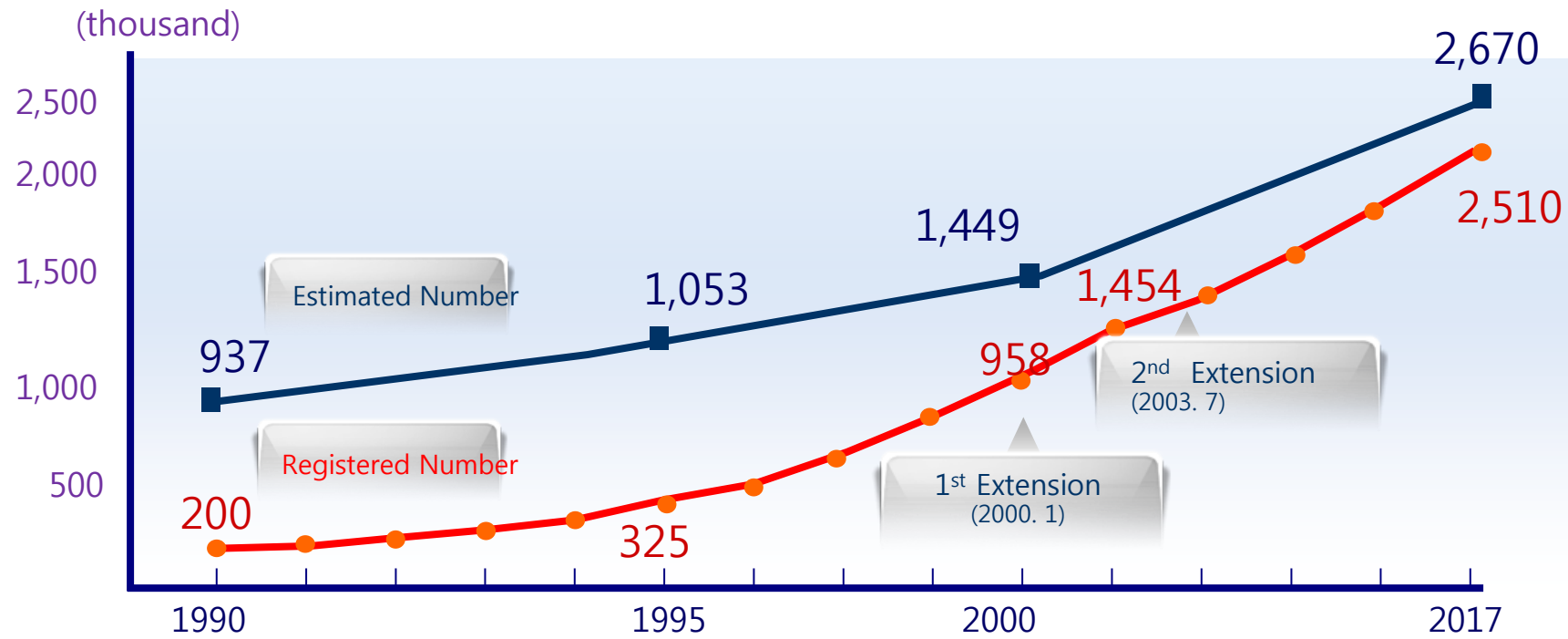
Transition in Disability Category in Current Law: 15 - Kinds



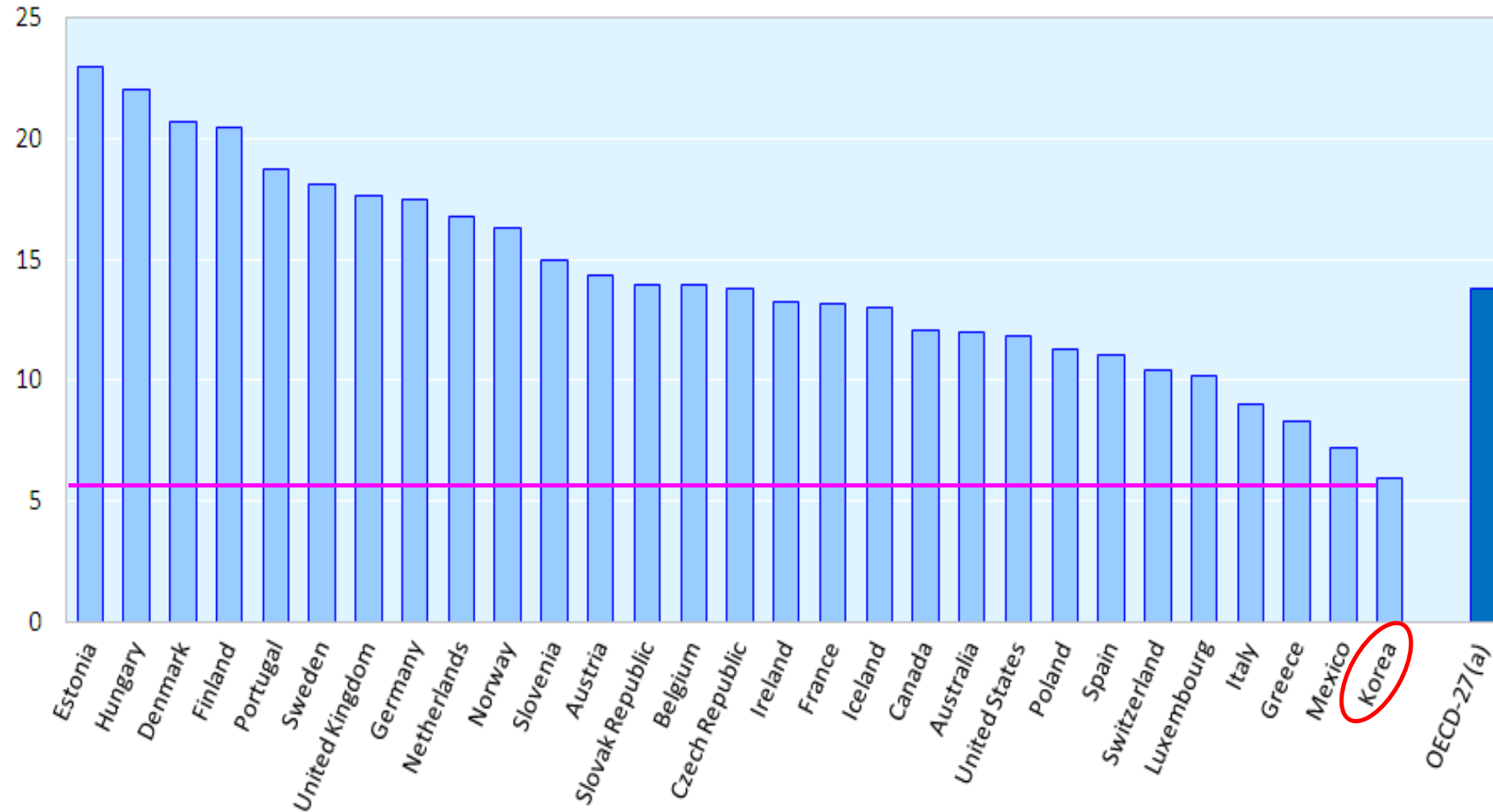
<Disability Category and Grade>

Category/Grade	1	2	3	4	5	6
Physical	0	0	0	0	0	0
Cerebral Palsy	0	0	0	0	0	0
Visual Impairments	0	0	0	0	0	0
Hearing Impairments		0	0	0	0	0
Language Impairments			0	0		
Intellectual Impairments	0	0	0			
Autism	0	0	0			
Mental Health	0	0	0			
Kidney		0			0	
Heart	0	0	0		0	
Breath	0	0	0		0	
Liver	0	0	0		0	
Face		0	0	0	0	
Intestine, Urinal		0	0	0	0	
Epilepsy		0	0	0		

Rapidly Increased Number of Disabled People



Disability Population in the World



Source: OECD, Sickness and Disability Policies Synthesis Report, 2010.

❖ **Low Income, Economic and Social Activities** (Survey on Disabled People in 2017)

- Disabled People Households – Monthly Average Income : \$2,300
 - **National Households - \$3,500**
- Employment Rate of Disabled People: 36% (**National 60%**)
 - **Monthly Average Income of Employed Disabled Person \$1,600**
 - **Monthly Average Income of Employed Person \$2,300**
- 34% of Disabled People needs other's support(help) in daily life
- 80.7% of Disabled People say "There are discriminations" due to lack of reasonable adjustments or negative attitude.

Income Policy : Disabled People's Pension + Disability Allowance + Disabled Children Allowance

Education Policy : Special Education School/ Special Class in General School/General Class in GS

Employment Policy : Mandatory Disability Employment System, Sheltered Workshop

Information Access Policy : Korean Sign Language Act, Braille Act, Easy-Read Version

Discrimination Policy : Anti-Discrimination Act

Social Service Policy : Personal Assistance, Regional Welfare Centre, Residential Facilities

Mobility Policy: Electronic Wheelchair, Kneeling Bus, Barrier-free Zone Assurance

Mental Health is one of disability categories but governed by separate legal system

- Not by 'Act on Welfare of Persons with Disabilities', but by 'Act on Guarantee of Right to health and Access to Medical Services for Disabled People'

<Newly Legislated>

2014. Act on Guarantee of Rights of and Support for Person with Developmental Disabilities

2015. Act on Guarantee of Right to health and Access to Medical Services for Disabled People

2016. Korean Sign Language Act

2017. Braille Act

<Mainly Revised>

2017. Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients

2017. Act on Act on Welfare of Persons with Disabilities (Abolishment of Disability Classification System)

II. Committee's List of Concerns

2008. 12. Ratified UNCRPD (came to effect on 10th Jan. 2009)
- Optional Protocol unratified, Section 25(Paragraph 27) reserved
2011. 12. Submit the Initial National Report
2014. 09. Reviewed by UN Committee
2014. 10. Concluding Observation on the Report
2018. 03 Adopted the [Committee's List of Concerns](#)
2019. 03. Submit “Combined Second & Third National Report”

1. **Measures taken to align the Act on Welfare of Persons with Disabilities with the human rights-based approach to disabilities of the Convention and to ensure the application of the Act on Welfare of Persons with Disabilities to the targets of the Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients**
2. **Possibility to revise the disability classification system to better reflect the characteristics, surrounding conditions, and needs of the targets in the assessment of disability grades and to enable all with disabilities to have access to tailored welfare services and activity assistant services and the revision direction for the said system**
3. **Establishment of a detailed timeline for the ratification of the Optional Protocol to the Convention**
4. **Information provided for each issue raised**
 - a) **Measures to expand the workforce of the National Human Rights Commission of Korea and reinforce its independence**
 - b) **Measures to exempt or reduce the litigation costs of victims of disability-based discrimination by the court and measures to ease the conditions to be met for the issuance of an order for correction by the Ministry of Justice**
 - c) **Projects and activities to improve the awareness of courts for the need to effectively implement the Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of Their Rights, Etc., and the need for courts to exercise the discontinuation order right**
 - d) **Ratio of disability related petitions to other petitions among all petitions notified to the Ministry of Justice by the National Human Rights Commission of Korea and reasons for disability-related petitions**
 - e) **Legal aid statistics regarding lawsuits filed due to the violation of the Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of Their Rights, Etc.**
5. **Implementation status for each issue raised and descriptions of pertinent measures taken**
 - a) **Expansive reflection of gender perspectives on disability related laws and policies and establishment of policies for women with disabilities that address multifaceted and complex discriminatory acts**
 - b) **Implementation of effective measures to resolve violence against women with disabilities at living facilities, including psychological and physical violence by family members, and the establishment of educational programs for the disabled to prevent sexual and domestic violence**
 - c) **Measures to help women with disabilities receive appropriate lifelong education in accordance with their needs and preferences and to provide financial support accordingly**
 - d) **Support for women with disabilities for their pregnancy, childbirth, and postpartum stages and measures to protect them against forced sterilization, induced abortion, and deprivation of parental status**

6. Measures to enact and amend pertinent laws for the integration of disabled and non-disabled children and to maximize the participation of disabled children and their families in the policymaking process through relevant organizations

7. Activities to raise awareness on the human rights of the disabled and reinforce a positive image of the disabled

8. Measures to systematically disseminate the details and purpose of the Convention and educate government officials, National Assembly members, the press, and the public

9. Implementation status for each issue and pertinent measures taken

- a) Measures taken to ensure the safe and convenient use of public transportation, including intercity transportation means, by the disabled
- b) Status of application of accessibility standards to all public facilities and workplaces irrespective of size, maximum capacity, and construction year
- c) Amendment of laws to enable all persons with disabilities to access information via online websites, mobile communication devices, home appliances, etc.

10. Measures taken to raise the effectiveness of Barrier-Free (BF) Certification and the participation of private facilities in the program

11. Disaster risk reduction plans and strategies of the central and local governments and measures to ensure consideration and accessibility for the disabled during emergencies

***Measures taken in an aim to comply with the Sendai Framework and Incheon Strategy**

12. Latest developments regarding each issue

- a) Replacement of substituted decision-making with supported decision-making based on Article 12 of the Convention and abolition of the adult guardianship system
- b) Education on the recognition of the legal capacity of the disabled and supported decision-making targeting all actors, including government officials, judges, and social workers

13. Activities regarding each issue raised

- a) Activities to ensure the effective implementation of Article 26 (Prohibition of Discrimination in Providing Judicial and Administrative Procedures and Services) of the Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of Their Rights, Etc.
- b) Inclusion of procedural convenience based on age and gender in educational programs aimed at all related to the judicial system and standard modules regarding the guarantee of access to justice
- c) Measures to legislate the Guidelines on Judicial Support for the Disabled published by the Supreme Court of Korea to make the Guidelines legally binding and implement them effectively
- d) Provision of procedural convenience for prisoners throughout the entire legal and notarization process and education on this service targeting pertinent expert groups
- e) Provision of deserved conveniences and other measures for disabled judges, prosecutors, and attorneys

14. Developments regarding each issue raised

- a) Abolition of provisions that allow the deprivation of freedom based on disabilities including mental disabilities
- b) Measures to sufficiently notify targets of all healthcare and medical services, including mental health services, and perform them based on the voluntary consent of the patient pursuant to the Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients
- c) Review of cases of the deprivation of freedom of the disabled committed at hospitals and relevant facilities and the possibility of appeal until pertinent laws allowing for the deprivation of freedom of the disabled are amended
- d) Measures to ensure procedural convenience to guarantee fair trials and equality in all legal procedures for the disabled
- e) Abolition of provisions pointing to any inadequacy of the disabled for legal procedures in the criminal justice system and measures to guarantee equality in all legal procedures for the disabled in line with those of non-disabled people

15. Developments regarding each issue raised

- a) Abolition of forced treatment that requires the disabled to withstand cruel, inhuman, or degrading treatment and punishment including physical restraint, isolation, and forced drug administration
- b) Effective protection measures for the disabled while residing at mental healthcare institutions against cruel, inhuman, or degrading treatment, including torture, and the formation of an independent and effective external watchdog agency ensuring the participation of organizations representing the disabled

16. Measures taken to investigate cases of exploitation, violence, and abuse experienced by the disabled within and outside of pertinent facilities, to punish abusers and compensate victims, to provide shelters for the disabled, etc., and the latest information about such measures
17. Operation of an effective protection system for disabled victims of forced labor and long-term protection measures for verified victims of forced labor
18. Developments in activities to root out forced sterilization and protect the disabled from such practices and explicit prohibition of forced sterilization
19. Abolition (improvement) of Article 11 of the Immigration Act to prevent the deprivation of the right to enter Korea due to disability and abolition (improvement) of Article 32 of the Act on Welfare of Persons with Disabilities to prevent any restriction on the use of basic disability support services by immigrants with disabilities
20. Measures taken for effective deinstitutionalization, methods and timeline for deinstitutionalization of current residents of long-stay facilities, and number and current status of former disabled residents who were discharged from long-stay facilities
21. Policies to expand community-based disability-related support based on the actual needs and financial conditions (activity assistant service, minimum cost of living, etc.) of the disabled, instead of the severity of disability and household income
22. Developments regarding each issue raised
- a) Enforcement of the Korean Sign Language Act and the Braille Act
 - b) Inclusion of provisions regarding the accessibility of the disabled in the regulations for the accessibility of broadcast programs and online materials
 - c) Diversification of access to public information and provision of information in "easy-to-read" form

23.

Provision of necessary childcare support for parents of disabled children, including single parents; legal grounds for and details of the comprehensive policies to ensure that disabled children exercise their rights to participate in their local communities equally in line with the participation of non-disabled children; and plans to ensure the fair treatment of biological and adoptive parents of disabled children

24. Measures to guarantee the rights of the disabled to marry and form a family

25. **Developments regarding each issue raised**

- a) **Effectiveness of and improvement measures for current policies on integrated education, including those for students with multiple disabilities of vision impairment and hearing impairment**
- b) **Creation of an accessible learning environment and promotion of integrated education and rightfully deserved conveniences by schools and other educational institutions by equipping classes with assistive learning devices and offering accessible educational materials and curriculums for the disabled**
- c) **Reinforcement of education for teachers and staff members at non-special-education schools**
- d) **Aggressive promotion of awareness raising targeting students, teachers, and staff members; creation of positive perceptions towards disabled students; and zero tolerance for violence and harassment towards disabled students**

26. **Need for additional special education schools**

27.

Amendment of Article 732 of the Commercial Act, which allows people with mental disabilities to subscribe to a life insurance policy only when they can prove their decision-making capacity; improvements made regarding the withdrawal of reservation on Article 25 (e) of the Convention; measures to improve the accessibility of healthcare institutions for the disabled; and plans to provide subsidies for healthcare service expenses currently apportioned to disabled patients and to reduce their healthcare financial burden in the future

28. Implementation of the obligations and specific measures taken regarding each issue raised

- a) Abolition of discriminatory legal provisions that prevent or limit the participation of those with intellectual and mental disabilities in the labor market**
- b) Provision of compensation for the disabled marginalized from the benefits under the Minimum Wage Act and specific measures**
- c) Efforts to discourage vocational rehabilitation facilities for persons with disabilities to promote integrated employment of the disabled as specified in the Convention and to seek alternatives**
- d) Effective implementation of the mandatory disability employment system and policies to promote the employment of women**
- e) Specific measures to guarantee the employment of the disabled in the public sector**

29. Plans to examine disability income guarantee policies regarding an increase in disability allowances and disability pension benefits and social security policies

30. Specific measures to guarantee the right to vote and eligibility for election of the disabled and measures regarding voting assistants for disabled voters

31. Specific measures taken to effectively implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled and to ensure integration and access of the disabled regarding the 2018 Winter Olympics and Paralympics in PyeongChang and other sport events

32. Description of measures taken to systematize disability-related data collection, analysis, and distribution and to improve access to published statistics based on the latest data

33. Measures taken to realize SDGs and effectively implement the Convention and Incheon Strategy aimed at protecting the human rights of the disabled

34. Measures taken regarding each issue raised

- a) Fulfillment of the goals of the effective development and implementation of disability policies by the Policy Coordination Committee for Persons with Disabilities**
- b) Sufficient provision of human and material resources to enable the National Human Rights Commission of Korea to effectively supervise the implementation of the Convention**
- c) Guarantee of the involvement of the disabled and NGOs throughout the process of the implementation of the Convention and the monitoring of the implementation status**

The Scope of this Presentation

1. Measures taken to align the Act on Welfare of Persons with Disabilities with the human rights-based approach to disabilities of the Convention and to ensure the application of the Act on Welfare of Persons with Disabilities to the targets of the Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients
2. Possibility to revise the disability classification system to better reflect the characteristics, surrounding conditions, and needs of the targets in the assessment of disability grades and to enable all with disabilities to have access to tailored welfare services and activity assistant services and the revision direction for the said system
3. Establishment of a detailed timeline for the ratification of the Optional Protocol to the Convention
14. Developments regarding each issue raised
 - a) Abolition of provisions that allow the deprivation of freedom based on disabilities including mental disabilities
22. Developments regarding each issue raised
 - a) Enforcement of the Korean Sign Language Act and the Braille Act
 - b) Inclusion of provisions regarding the accessibility of the disabled in the regulations for the accessibility of broadcast programs and online materials
 - c) Diversification of access to public information and provision of information in "easy-to-read" form
26. Need for additional special education schools
27.

Amendment of Article 732 of the Commercial Act, which allows people with mental disabilities to subscribe to a life insurance policy only when they can prove their decision-making capacity
28. Implementation of the obligations and specific measures taken regarding each issue raised
 - b) Provision of compensation for the disabled marginalized from the benefits under the Minimum Wage Act and specific measures
 - c) Efforts to discourage vocational rehabilitation facilities for persons with disabilities to promote integrated employment of the disabled as specified in the Convention and to seek alternatives
 - d) Effective implementation of the mandatory disability employment system and policies to promote the employment of women
 - e) Specific measures to guarantee the employment of the disabled in the public sector

III. Efforts and Some Delicate Issues in Accommodating Committee's Concerns (selected)

1. Human Right-Based Approach

Measures taken to align the Act on Welfare of Persons with Disabilities with the human rights-based approach to disabilities of the Convention

and to ensure the application of the Act on Welfare of Persons with Disabilities to the targets of the Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients

Replace “Grade of Disability” with “Severity of Disability”

With regard to the medical model of disability introduced in the Act on Welfare of Persons with Disabilities, the Committee pointed out in its concluding observations in 2014 that the model results in one-size-fits-all services for those classified into each disability grade in accordance with their medical assessment. The Korean government amended the Act on December 19, 2017, and replaced the notion of “grade of disability” with “severity of disability”. This amendment is aimed at providing individualized services based on the comprehensive service support survey, laying the groundwork for home visit counseling and case management, and thereby eliminating blind spots in welfare services. The amended Act shall take effect on July 1, 2019.

The Korean government amended the Act on Welfare of Persons with Disabilities (amended on June 22, 2015, and enforced from January 1, 2017) to lay the groundwork for the launch of an **Advocacy Agency for Persons with Disability** which aims to prevent their mistreatment, and provide follow-up support for disabled victims of mistreatment, discrimination, and human rights violations
17 locations run by the governments of the cities and provinces.

As for **the shelters for disabled victims of mistreatment** established pursuant to Article 59/11 (Shelters for Victimized Persons with Disabilities) of the same Act, **five more are scheduled** to open in the second half of 2019 in addition to the existing eight. The government plans to continue to expand these shelters across the nation.

<Act on Welfare of Persons with Disabilities>**Article 15 (Relationship to other Acts)**

With respect to persons with disabilities governed by other Acts prescribed by Presidential Decree, including the **Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients** and the **Act on the Honorable Treatment of and Support for Persons, etc. of Distinguished Service to the State**, among persons with disabilities defined in Article 2, the application of this Act **may be restricted** as prescribed by Presidential Decree

**Mental Rehabilitation
Facilities>**



<Act on Welfare of Persons with Disabilities>

Programmes for Disabled People

Types and Projects of Mental Rehabilitation Facilities

Types		Details
1. Living facilities		Designed to provide accommodation, guidance for daily living, education, and vocational rehabilitation training for mental patients, etc., unfit to be treated at home and ultimately help them rehabilitate, achieve independent living, and reintegrate into society
2. Rehabilitation training facilities	a. Daytime rehabilitation facilities	Designed to teach professional techniques and skills and provide vocational training, social adaptation training, and employment support for mental patients, etc.
	b. Group homes	Designed to help foster the capacity for independent living in mental patients, etc., who are not yet fit to live entirely on their own but are equipped with a certain level of abilities required for independent living by providing them a residential space shared with other mental patients
	c. Short-stay facilities for reintegration into communities	Designed to provide temporary or short-term protection to mental patients, etc., within the community and help those discharged or scheduled to be discharged from the facility stably reintegrate into society through offering accommodation, living training, social adaptation training, etc.
	d. Vocational rehabilitation facilities	Designed to help mental patients, etc., receive vocational rehabilitation training for vocational adaptation and improvement of skills or seek jobs in a specially prepared working environment and support them to participate in the labor market after they develop vocational competency
	e. Mental health support facilities for children and youth	Designed to provide counseling, education, and information for children and youth with mental disabilities
3. Addiction rehabilitation facilities		Designed to treat and rehabilitate mental patients, etc., suffering from alcohol addiction, substance addiction, or game addiction
4. Product sales facilities		Designed to sell and distribute products made by mental patients, etc., on their behalf, provide consultations, promotional support, and marketing support, pioneer new markets, and offer necessary information
5. Combined facilities		A combination of two or more rehabilitation facilities for mental patients listed above designed to provide living support, accommodation, rehabilitation training, etc., in a comprehensive manner

Regions	Mental Health Welfare Centers			Mental rehabilitation facilities
	City/county/district level	Upper-level local autonomy	Lower-level local autonomy	17 special metropolitan city/metropolitan city/special self-governing city/province/special self-governing province level
Total	229	16	227	336
Seoul	25	1	25	116
Busan	16	1	16	112
Daegu	8	1	8	18
Incheon	10	1	10	12
Gwangju	5	1	5	10
Daejeon	5	1	5	28
Ulsan	5	1	5	2
Sejong	1		1	2
Gyeonggi-do	31	1	36	5
Gangwon-do	18	1	18	45
Chungcheongbuk-do	11	1	14	13
Chungcheongnam-do	15	1	16	25
Jeollabuk-do	14	1	11	21
Jeollanam-do	22	1	20	4
Gyeongsangbuk-do	23	1	15	16
Gyeongsangnam-do	18	1	20	4
Jeju-do	2	1	2	3



It is deemed somewhat necessary to limit mental patients' access to welfare facilities for the disabled established under the Act on Welfare of Persons with Disabilities. The Korean government fully recognizes the background of the Committee's concern that the Act on Welfare of Persons with Disabilities is defining mental patients as persons with mental disabilities and yet **excluding them from the universal welfare service delivery system for the disabled**. The Korean government plans to examine ways to resolve this issue from multiple perspectives.

2. Disability Classification System

Possibility to revise the **disability classification system to better reflect the characteristics, surrounding conditions, and needs of the targets in the assessment of disability grades and to enable all with disabilities to have access to tailored welfare services and activity assistant services and the revision direction for the said system**

<Disability Category and Grade>

Category/Grade	1	2	3	4	5	6
Physical	0	0	0	0	0	0
Cerebral Palsy	0	0		0		0
Visual Impairments	0	0		0		0
Hearing Impairments		0				0
Language Impairments						
Intellectual Impairments	0	0				
Autisim	0	0				
Mental Health	0	0				
Kidney					0	
Heart	0				0	
Breath	0		0		0	
Liver	0		0		0	
Face			0	0	0	
Intestine, Urinal		0	0	0	0	
Epilepsy		0	0	0		

For Example

- **Severely Disabled People : 1, 2, 3(multiple)**
- **Some benefits such as Personal Assistance Services, Disabled People's Pension(non-contributional) only for Severely Disabled People**

Need to consider individual condition based on needs. – Abolish it!

► Replace "Grade of Disability" with "Severity of Disability"

The Korean government has pushed ahead with the **abolition of the existing disability classification system** that provides one-size-fits-all services for each grade based on medical assessment and moved forward with the establishment of a more individualized service system **as one of its 100 Policy Tasks** in an aim to better protect the rights and interests of the disabled and ensure their community-based self-reliance. The government has continued to consult organizations serving the disabled and pertinent experts about this issue since 2013 and formed the **private/public disability classification system abolition council in 2017**. The council has held ten indepth discussions and has made continual progress regarding detailed implementation plans. The government has also continued to make preparations for new support criteria and a new service delivery system model oriented towards the disabled to replace the existing disability classification system through **research conducted by experts and three pilot projects (first in 2015, second in 2016, and third in 2017) and has reviewed their feasibility. In December 2017**, the government amended the Act on Welfare of Persons with Disabilities, the legal basis for the controversial disability classification system, to provide the legal grounds for its abolition scheduled to take effect on **July 1, 2019**.

The Korean government plans to introduce the comprehensive survey system for services for the disabled step-by-step from July 2019 to 2022, including daily life assistance (for activity assistance, provision of assistive devices, and admission to living facilities for the disabled), mobility assistance (call taxi services, parking permits, etc.), and employment and income support (disability pension, application of the mandatory employment system for persons with disabilities).

This testifies to the government's will to remove any restrictions on access to welfare services and activity services incurred by the controversial disability classification system. The abolition of the disability classification system and the establishment of an individualized welfare service delivery system are expected to lead to the expansion of home visit counseling for those with disabilities in current blind spots and the development of welfare services that better cater to the needs of individual targets, while reinforcing the management of specialized cases.

3. Optional Protocol to the Convention

Establishment of a detailed timeline for the ratification of the Optional Protocol to the Convention

<Optional Protocol to the Convention>

Individuals or group of individuals can bring their cases to the Committee on the Rights of Persons with Disabilities when all available domestic remedies have been exhausted

enacted the Act on the Prohibition of Discrimination against Persons with Disabilities (2007)

National Human Rights Commission of Korea Act

The Korean government is well equipped with systems and procedures to safeguard the rights and interests of the disabled. The National Human Rights Commission of Korea has also played an instrumental role in protecting the disabled against discrimination as evidenced by the fact that the number of petitions submitted to the Commission related to disability-based discrimination has increased dramatically after the enforcement of the Act on the Prohibition of Discrimination against Persons with Disabilities

The Korean government views the Optional Protocol to the Convention as a vehicle that will effectively guarantee the implementation of the obligations of the Convention through the introduction of the petition filing system for individuals and groups. For most international human rights conventions adopted by Korea, which enable petition filing by individuals, **the related optional protocols were ratified after a sufficient period of time to allow for the nation's institutional preparedness and other conditions to mature.** As a decade has passed after the ratification of the Convention, the government recognize **it is time to positively review the ratification of the Optional Protocol to the Convention.** To push ahead with the ratification of the Optional Protocol to the Convention, the government plan to analyze precedents of cases of disability-based discrimination to check whether the rights specified in the Convention are ensured and closely examine procedures for safeguarding the rights of the disabled as prescribed in the Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of Their Rights, Etc.

Categories	Number of petitions
Before the enforcement of the Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of Their Rights, Etc (November 25, 2001-April 10, 2008)	653
After the enforcement of the Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of Their Rights, Etc (April 11, 2008-December 2017)	11,452

4. Mental Health Patients – Involuntary Hospitalisation

14. Developments regarding each issue raised

- a) Abolition of provisions that allow the deprivation of freedom based on disabilities including mental disabilities**
- b) Measures to sufficiently notify targets of all healthcare and medical services, including mental health services, and perform them based on the voluntary consent of the patient pursuant to the Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients**
- c) Review of cases of the deprivation of freedom of the disabled committed at hospitals and relevant facilities and the possibility of appeal until pertinent laws allowing for the deprivation of freedom of the disabled are amended**

The Korean government wholly amended the Mental Health Act on May 29, 2016, and enforced the Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients on May 29, 2017, to prevent any unnecessary forced hospitalization and reinforce the criteria and procedures for forced hospitalization to protect the human rights of mental patients. Pursuant to the Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients, only those diagnosed with mental diseases requiring treatment and those in danger of injuring themselves and others due to acute conditions may be involuntarily hospitalized for treatment, provided that the deprivation of their freedom is kept to a minimum.

As it is difficult to delete provisions concerning involuntary hospitalization to protect the health and safety of mental patients lacking decision-making capacity against self-injury, etc., and ensure their treatment, we instead drastically reinforced the involuntary hospitalization criteria. Whereas involuntary hospitalization against the will of the patient was previously allowed with either of two criteria fulfilled (diagnosis of a mental disease requiring hospitalization and danger of injuring himself/herself and others requiring hospitalization) based on the former Mental Health Act, it is now possible only if both of the two criteria are met with the consent of the patient's caregiver and diagnosis of a psychiatrist. The hospitalization procedure was also made more stringent. Initial involuntary hospitalization for two weeks or longer now requires the concurring opinions of two or more psychiatrists (no two such psychiatrists should work for the same healthcare organization, and at least one should belong to national or public mental healthcare institution or a mental healthcare institution designated by the Minister of Health and Welfare) submitted within two weeks.



A terrible thing happened on the last day of 2018. A professor of mental health medicine at Sangwon Kangbuk Samsung Hospital was stabbed to death during a medical treatment. The killer said he had bipolar disorder. The medical community was in a great shock.

Draft Bill on The Act for revision is in pending under discussion at the National Assembly(2019)

They argue that information on Patients who are diagnosed as being in danger of injuring himself/herself and others requiring hospitalization after being discharged can be transferred to GP or Mental Health Welfare Centre without any consent from him/herself or his/her guardian.

5. Information Accessibility

22, Developments regarding each issue raised

a) Enforcement of the Korean Sign Language Act and the Braille Act

b) Inclusion of provisions regarding the accessibility of the disabled in the regulations for the accessibility of broadcast programs and online materials

c) Diversification of access to public information and provision of information in "easy-to-read" form

The Korean government enacted the **Korean Sign Language Act in February 2016** and enforced the said Act from August of the same year. Pursuant to Article 1 of the said Act, Korean sign language is a language unique to Korea that has the same stature as the Korean language and is designed to ensure the freedom of speech and improve the quality of life for the speech-impaired, hearing-impaired, and other users of the said language.

The Korean government **also enacted the Braille Act on May 29, 2016**, and enforced it from May 30, 2017. The said Act is aimed at promoting the right of the visually impaired to use braille and enhancing their quality of life pursuant to Article 1 of the same Act. Article 4 of the same Act stipulates that braille is a set of letters used in Korea along with Hangeul and shall have the same effect as letters generally used in Korea.

The Korean government enacted the [Guidelines on the Provision of Broadcast Programs Accessible for the Disabled](#) to improve the quality of broadcasting for the disabled. Laws and notifications pertaining to broadcasting for the disabled prescribe the compulsory programming percentage for programs accessible by the disabled but fail to provide specific production methods and requirements for quality improvement. As such, Korea Communications Commission has focused on policy examination, the collection of opinions of stakeholders, and the operation of research teams since 2016 to draw up [the Guidelines on the Provision of Broadcast Programs Accessible for the Disabled announced on December 26, 2017](#). These Guidelines, addressing the basic requirements for the production of broadcast programs accessible by the disabled ([closed captioning, sign language interpretation, and descriptive narration](#)) for broadcasting business operators, Internet multimedia broadcasting content business operators, and broadcast program producers, testify to the government's efforts to ensure accessibility for those marginalized from broadcasting. We are also staging presentations for broadcasting business operators and producers to promote compliance with the Guidelines and raise their awareness on accessible broadcasting.

6. Special Education School

Need for additional special education schools

The Korean government agrees to the need for inclusive education as stated in General Comment 4 and is striving to gradually mobilize national efforts to espouse **integrated education to achieve inclusive education**. In this context, we have sought to develop educational materials for the disabled, provide training for teachers and school personnel, and increase awareness on disabilities. However, due to limitations in our educational environment, families with disabled children have demanded the establishment of special education schools, and we are in need of special education schools that offer efficient education tailored for different disabilities (refer to the response for 25).

As of 2018, **176 special education schools** are in operation across the nation. However, 14% of the total classes are overcrowded, and it takes more than one hour for 1,853 students (7.4%) to commute to their school. This necessitates the expansion of special education schools and classes. As such, **the Korean government plans to build a total of 26 new special education schools – three in 2018, another three in 2019, five in 2020, nine in 2021, and six in 2022 –** and enhance the special education opportunities for disabled students.

★ As of 2018, **71%** of the target students with special education needs are placed in **non-special-education school**



7. §732 Commercial Act – Life Insurance

27.

Amendment of Article 732 of the Commercial Act, which allows people with mental disabilities to subscribe to a **life insurance policy only when they can prove their decision-making capacity;**

The Korean government amended Article 732 of the Commercial Act on March 11, 2014, which had entirely prohibited the mentally disabled from subscribing to a life insurance policy, to enable those with decision making capacity to join a life insurance policy to implement the obligations of the Convention. Government will positively consider the withdrawal of reservation on Article 25 (e) of the Convention through consultations with relevant ministries.

The Convention mandates the provision of life insurance for the disabled in a “fair and reasonable manner”. Article 732 of the Commercial Act is designed only to limit a mentally disabled person lacking decision-making capacity from subscribing to life insurance with the event of his/her death covered as insurance risk. Thus, it is not a form of discrimination against the mentally disabled but a reasonable measure necessary to protect them against insurance crime and malevolent neglect. France prohibits the subscription to life insurance by disabled adults under guardianship and inpatients of mental healthcare institutions. Also, Anglo-American law deems it difficult to recognize insurable interest when the insured is a mentally disabled person lacking decision-making capacity.

8. Employment

28. Implementation of the obligations and specific measures taken regarding each issue raised

- b) Provision of compensation for the disabled marginalized from the benefits under the Minimum Wage Act and specific measures**
- c) Efforts to discourage vocational rehabilitation facilities for persons with disabilities to promote integrated employment of the disabled as specified in the Convention and to seek alternatives**
- d) Effective implementation of the mandatory disability employment system and policies to promote the employment of women**
- e) Specific measures to guarantee the employment of the disabled in the public sector**

The Korean government **recently reinforced the criteria for the permission for the exclusion from minimum wage application** in an effort to promote the wellbeing of disabled workers marginalized from the benefits under the Minimum Wage Act and stay faithful to the purpose of the minimum wage system. Whereas the said permission was given when the result of the assessment came out to be “inadequate” (less than 90%) in the past, it now requires **“very inadequate” (less than 70%) to obtain the said permission from January 1, 2018**

.

The Korean government believes that all disabled people, including those with severe disabilities, should be able to receive appropriate wages and enjoy job security. In this context, we are **considering a further reform of the permission system for the exclusion from minimum wage application** to realize appropriate wages that can bring stability to the lives of disabled workers, refrain from overly burdening employers, and require a feasible level of support. To this end, we set up the system reform task force participated in by disability organizations and experts and plan to make institutional improvements through amendments of pertinent laws starting in 2019.

The Korean government hereby clarifies its belief that, when considering the employment gap between those with different disabilities of varying severity and non-disabled people, the creation of and policy support for a “protected employment environment” are necessary to provide more opportunities for the severely disabled, including those with developmental disabilities, to access workplaces within their communities and prepare themselves for integration into the competitive labor market.

The Ministry of Health and Welfare operates the aforementioned vocational rehabilitation facilities mainly for the severely disabled who encounter difficulties in finding jobs in the general labor market. These facilities make sure to recruit non-disabled workers as well to prevent the segregation of the disabled and guarantee integrated work settings similar to non-protected workplaces.

Korea has witnessed a continued increase in the rate of the disabled hired based on the **mandatory disability employment system** put into operation in 1990 under the Act on the Employment Promotion and Vocational Rehabilitation of Persons with Disabilities powered by a wide range of government support to encourage employers to recruit workers with disabilities, along with measures such as the **upward adjustment of the mandatory disability employment rate**, imposition of charges, and announcement of the list of employers in non-compliance (2.35% in 2012, 2.48% in 2013, 2.54% in 2014, 2.62% in 2015, 2.66% in 2016, and 2.76% in 2017). To further promote the hiring of the disabled, we offer diversified services to employers, including integrated consulting for disability employment, presentations for large corporations, support for the establishment of standard workplaces, facility and equipment loans, and the provision of work assistants and assistive devices.

Changes in Disability Employment Rates of December 2017 Compared to 2016

Classification			December 2016 (A)				December 2017 (B)				Increase/decrease (B-A)	
			Target companies	Full-time employees	Disabled employees	Employment rate	Target companies	Full-time employees	Disabled employees	Employment rate	Disabled employees	Employment rate
Total			28,708	7,852,861	209,260 (168,614)	2.66 (2.15)	28,018	7,912,772	218,441 (175,935)	2.76 (2.22)	9,181 (7,321)	0.10 (0.07)
Government sector	Public officials	Subtotal	313	852,554	23,958 (20,850)	2.81 (2.45)	314	861,388	24,831 (21,531)	2.88 (2.50)	873 (681)	0.07 (0.05)
		Central government bodies	49	169,971	5,847 (5,014)	3.44 (2.95)	50	171,995	5,974 (5,107)	3.47 (2.97)	127 (93)	0.03 (0.02)
		Constitutional institutions	4	26,082	629 (570)	2.41 (2.19)	4	26,778	652 (582)	2.43 (2.17)	23 (12)	0.02 (▼0.02)
		Local governments	243	262,510	10,712 (9,235)	4.08 (3.52)	243	269,105	10,982 (9,450)	4.08 (3.51)	270 (215)	0.00 (▼0.01)
		Offices of Education	17	393,991	6,770 (6,031)	1.72 (1.53)	17	393,510	7,223 (6,392)	1.84 (1.62)	453 (361)	0.12 (0.09)
	Employees	Subtotal	294	277,048	11,609 (8,394)	4.19 (3.03)	295	275,087	12,685 (9,104)	4.61 (3.31)	1,076 (710)	0.42 (0.28)
		Central government bodies	33	44,355	1,142 (939)	2.57 (2.12)	34	44,513	1,173 (953)	2.64 (2.14)	31 (14)	0.07 (0.02)
		Constitutional institutions	3	757	24 (19)	3.17 (2.51)	3	1,364	55 (45)	4.03 (3.30)	31 (26)	0.86 (0.79)
		Local governments	241	84,679	6,068 (4,741)	7.17 (5.60)	241	86,496	7,135 (5,418)	8.25 (6.26)	1,067 (677)	1.08 (0.66)
		Offices of Education	17	147,257	4,375 (2,695)	2.97 (1.83)	17	142,714	4,322 (2,688)	3.03 (1.88)	▼53 (▼7)	0.06 (0.05)

Classification		December 2016 (A)				December 2017 (B)				Increase/decrease (B-A)	
		Target companies	Full-time employees	Disabled employees	Employment rate	Target companies	Full-time employees	Disabled employees	Employment rate	Disabled employees	Employment rate
Total		28,708	7,852,861	209,260 (168,614)	2.66 (2.15)	28,018	7,912,772	218,441 (175,935)	2.76 (2.22)	9,181 (7,321)	0.10 (0.07)
Public organizations	Subtotal	596	440,748	13,064 (11,444)	2.96 (2.60)	625	458,031	13,853 (12,131)	3.02 (2.65)	789 (687)	0.06 (0.05)
	State-owned companies	30	111,618	3,467 (3,180)	3.11 (2.85)	35	128,729	3,956 (3,645)	3.07 (2.83)	489 (465)	▼0.04 (▼0.02)
	Quasi-governmental organizations	89	96,130	3,291 (2,842)	3.42 (2.96)	88	99,146	3,372 (2,942)	3.40 (2.97)	81 (100)	▼0.02 (0.01)
	Other public organizations	180	141,712	3,142 (2,681)	2.22 (1.89)	184	133,026	3,118 (2,580)	2.34 (1.94)	▼24 (▼101)	0.12 (0.05)
	Local state-owned companies	132	63,717	2,521 (2,195)	3.96 (3.44)	137	65,970	2,669 (2,331)	4.05 (3.53)	148 (136)	0.09 (0.09)
	Financing and funding organizations	165	27,571	643 (546)	2.33 (1.98)	181	31,160	738 (633)	2.37 (2.03)	95 (87)	0.04 (0.05)
Private companies	Subtotal	27,505	6,282,511	160,629 (127,926)	2.56 (2.04)	26,784	6,318,266	167,072 (133,169)	2.64 (2.11)	6,443 (5,243)	0.08 (0.07)
	Staffed by less than 100	14,305	1,004,540	24,236 (18,624)	2.41 (1.85)	13,624	957,667	24,371 (18,747)	2.54 (1.96)	135 (123)	0.13 (0.11)
	Staffed by 100-299	9,832	1,607,239	47,994 (38,009)	2.99 (2.36)	9,715	1,586,917	48,917 (38,895)	3.08 (2.45)	923 (886)	0.09 (0.09)
	Staffed by 300-499	1,617	613,647	17,433 (13,781)	2.84 (2.25)	1,635	620,965	18,048 (14,306)	2.91 (2.30)	615 (525)	0.07 (0.05)
	Staffed by 500-999	1,060	730,967	20,773 (16,725)	2.84 (2.29)	1,090	750,865	21,557 (17,597)	2.87 (2.34)	784 (872)	0.03 (0.05)
	Staffed by 1,000 or more	691	2,326,118	50,193 (40,787)	2.16 (1.75)	720	2,401,852	54,179 (43,624)	2.26 (1.82)	3,986 (2,837)	0.10 (0.07)
	Large corporation group	606	1,216,478	24,165 (20,325)	1.99 (1.67)	652	1,247,775	25,714 (21,316)	2.06 (1.71)	1,549 (991)	0.07 (0.04)

Thank You