



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

### Report of the Committee on the Rights of Persons with Disabilities on its thirty-fourth session (9–27 March 2026)

#### I. States Parties to the Convention and the Optional Protocol thereto

1. As at 27 March 2026, the date on which the thirty-fourth session closed, there were 193 States Parties to the Convention on the Rights of Persons with Disabilities and 108 States Parties to the Optional Protocol thereto. The lists of States Parties to these instruments are available on the website of the Office of Legal Affairs of the Secretariat.

#### II. Opening of the thirty-fourth session of the Committee

2. The thirty-fourth session opened in a public meeting with welcoming remarks by the representative of the Secretary-General, the Chief of the Human Rights Treaties Branch, Human Rights Council and Treaty Mechanisms Division, Office of the United Nations High Commissioner for Human Rights. The welcoming remarks are available on the Committee's website.

3. The Committee reviewed and adopted the provisional agenda<sup>1</sup> and programme of work for the thirty-fourth session.

#### III. Membership of the Committee

4. The list of members of the Committee as at 27 March 2026, indicating the duration of their terms of office, is available on the Committee's website.

#### IV. Working methods

5. The Committee discussed various issues related to its working methods and decided to continue updating and streamlining its working methods during the intersessional period. It also discussed matters related to the treaty body strengthening process. It made adjustments to the methodology of its task forces during dialogues.

#### V. Activities related to general comments

6. The Committee continued, in private meetings, its work on drafting general comments on articles 11 and 29 of the Convention. As part of the activities that the Committee identified to contribute to the commemoration of the twentieth anniversary of the adoption of the

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<sup>1</sup> [CRPD/C/34/1](#).



Convention, the Committee, with the support of its working groups, decided to continue to develop guidelines on identifying and addressing multiple and intersecting forms of discrimination against women and girls with disabilities, to complement its general comment No. 3 (2016) on women and girls with disabilities, and guidelines on identifying and addressing disability-based violence, to complement its general comment No. 5 (2017) on living independently and being included in the community and its guidelines on deinstitutionalization, including in emergencies.

7. The Committee took note of the position of its secretariat that, given the current liquidity crisis, it would be in a position to support the Committee's work on only one general comment at a time. The Committee decided to establish a working group to conduct preparatory work in the current year for the drafting of a general comment on article 32 of the Convention, with the support of external partners and without the formal involvement of its secretariat.

## VI. Activities related to the Optional Protocol

8. The Committee examined five communications submitted for its consideration under the Optional Protocol to the Convention. It found violations of the Convention in two of them: *Černáková v. Slovakia*,<sup>2</sup> concerning the failure to interview a woman with disabilities in the context of criminal investigations into her abuse in an institution, and *Rožalovskis v. Latvia*,<sup>3</sup> concerning the termination of employment pending recognition of disability. The Committee found two communications inadmissible: *M.S. v. Germany*,<sup>4</sup> concerning procedural accommodation during a court hearing for a person with autism, and *J.A. and M.M. v. Serbia*,<sup>5</sup> concerning the institutionalization of two persons with disabilities. The Committee decided to discontinue its consideration of *N.V.H. et al. v. Argentina*,<sup>6</sup> concerning access to public transport for persons with disabilities.

9. The Committee also adopted a follow-up progress report on individual communications. That report sets out information received by the Special Rapporteur for follow-up to Views between the thirty-second and thirty-fourth sessions pursuant to the Committee's rules of procedure, and the Committee's assessments and decisions concerning the follow-up. The Committee decided to discontinue the follow-up procedure with regard to *Al-Hawali v. Saudi Arabia* and *Al-Awdah v. Saudi Arabia*<sup>7</sup> with an assessment of "C" (non-compliance), *E.O.J. et al. v. Sweden*<sup>8</sup> with an assessment of "B" (partial compliance), *Al-Sayed and Mangisto v. State of Palestine*<sup>9</sup> with an assessment of "C" (non-compliance), *Medina Vela v. Mexico (CRPD/C/22/D/32/2015)*<sup>10</sup> with an assessment of "A" (compliance) for the individual measures, and *N.I. v. Sweden*<sup>11</sup> with an assessment of "B" (partial compliance). Furthermore, the Committee amended its working methods with regard to individual communications.<sup>12</sup>

10. The Committee considered matters related to inquiry proceedings pursuant to articles 6 and 7 of the Optional Protocol.

<sup>2</sup> CRPD/C/34/D/78/2020.

<sup>3</sup> CRPD/C/34/D/95/2022.

<sup>4</sup> CRPD/C/34/D/65/2019.

<sup>5</sup> CRPD/C/34/D/103/2022.

<sup>6</sup> CRPD/C/34/D/99/2022.

<sup>7</sup> CRPD/C/30/D/84/2020 and CRPD/C/32/D/87/2021.

<sup>8</sup> CRPD/C/31/D/104/2023.

<sup>9</sup> CRPD/C/28/D/67/2019-CRPD/C/28/D/68/2019.

<sup>10</sup> CRPD/C/22/D/32/2015.

<sup>11</sup> CRPD/C/32/D/64/2019.

<sup>12</sup> CRPD/C/5/4/Rev.1.

## **VII. Future sessions**

11. Subject to the availability of funding, the thirty-fifth session of the Committee is provisionally scheduled to be held in Geneva from 12 to 27 August 2026.

## **VIII. Accessibility of the Committee's meetings**

12. The thirty-fourth session of the Committee was held in Geneva, with Committee members and the delegations of one State Party participating in person and the delegations of two States Parties participating in meetings held in a hybrid format. The delegation of one State Party was unable to participate owing to the situation in the Middle East. The Committee reviewed the implementation of the Convention in Liberia in the absence of a delegation of the State Party. Stakeholders including organizations of persons with disabilities, civil society organizations, specialized agencies and other United Nations bodies participated in person or sent pre-recorded video messages. International Sign interpretation and remote captioning were available. The provision of national sign language interpretation was still discontinued. Public meetings were webcast. No plain language or Easy Read versions of documents were available during the session. Reasonable accommodation, including in the organization of travel for Committee members with disabilities, continued to be provided, within existing resources.

13. While acknowledging that the Secretariat is facing a liquidity crisis and that cash-conservation measures have been adopted in response, the Committee regrets that the Division of Conference Management decided in January 2026 not to provide accessibility services – namely International Sign interpretation, remote captioning and Braille – to the Committee, a decision which was then reversed in February 2026 by the Under-Secretary-General for General Assembly and Conference Management. The Committee calls upon the relevant departments of the United Nations to uphold their duties under article 34 of the Convention to provide support to the Committee.

14. The Committee regrets that the United Nations Office at Geneva continued to refuse to provide national sign language interpretation during the meetings of the Committee, without having closely consulted or actively involving the World Federation of the Deaf or the Committee. The Committee considers that this measure runs contrary to the commitments of the Office under the United Nations Disability Inclusive Strategy. The Committee also regrets the fact that the Office continued to impose fees on permanent missions that decided to have national sign language interpreters connected online.

15. The Committee regrets that a deaf member of the Committee was once again not properly supported by the Secretary-General, in infringement of his duties under the Convention and the relevant General Assembly resolutions with regard to the provision of sign language interpretation.<sup>13</sup>

## **IX. Cooperation with relevant bodies**

### **A. Cooperation with United Nations organs and specialized agencies**

16. At the opening meeting of the session, the Committee heard statements by the Head of the Division of Human Rights, Disability Inclusion and Media of the Federal Ministry for Economic Cooperation and Development of Germany, a representative of the World Intellectual Property Organization, a representative of the United Nations Office for Disaster Risk Reduction and a representative of the European Union Agency for Fundamental Rights. At the closing meeting, the Committee heard statements by representatives of the

<sup>13</sup> General Assembly resolutions 68/268 and 80/197.

Inter-Parliamentary Union and the Committee of Victim Assistance under the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

## **B. Cooperation with non-governmental organizations and other bodies**

17. At the opening meeting of the session, the Committee was addressed by representatives of the International Disability Alliance, the Center for the Human Rights of Users and Survivors of Psychiatry, ASPACE Badajoz, Peace Inclusion Piece, the Citizens Commission on Human Rights Europe and the Citizens Commission on Human Rights of Spain.

18. At the closing meeting of the session, the Committee was addressed by representatives of the International Disability Alliance and the World Federation of the Deaf.

## **X. Consideration of reports submitted in accordance with article 35 of the Convention**

19. The Committee reviewed the implementation of the Convention in five States Parties. The Committee considered the initial reports of Lesotho, Liberia, the Marshall Islands, Pakistan and Samoa.<sup>14</sup> It adopted concluding observations in relation to those reports.<sup>15</sup> A list of States Parties whose initial reports are more than five years overdue may be found in annex II to the present report.

## **XI. Other decisions**

20. The Committee adopted the present report on its thirty-fourth session.

21. The full list of the decisions adopted by the Committee is available in annex I to the present report.

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<sup>14</sup> CRPD/C/LSO/1, CRPD/C/LBR/1, CRPD/C/MHL/1, CRPD/C/PAK/1 and CRPD/C/WSM/1.

<sup>15</sup> CRPD/C/LSO/CO/1, CRPD/C/LBR/CO/1, CRPD/C/MHL/CO/1, CRPD/C/PAK/CO/1 and CRPD/C/WSM/CO/1.

## Annex I

### Decisions adopted by the Committee at its thirty-fourth session

1. The Committee adopted concluding observations in relation to the initial reports of Lesotho, Liberia, the Marshall Islands, Pakistan and Samoa. The Committee regrets that Guinea-Bissau did not respond to its invitations to participate in a constructive dialogue. It also regrets that Liberia did not send a delegation for the constructive dialogue, meaning that the Committee was obliged to review the implementation of the Convention in that State Party in its absence.
2. The Committee examined five individual communications submitted for its consideration under the Optional Protocol to the Convention. It found violations of the Convention in two of them, declared two inadmissible and decided to discontinue the other. A summary of the decisions of the Committee may be found in annex III to the present report. The decisions will be transmitted to the parties as soon as possible and will subsequently be made public.
3. The Committee considered matters related to inquiries pursuant to the Optional Protocol. After the conclusion of proceedings under article 6 of the Optional Protocol regarding Mexico, an advance unedited version of the inquiry report of the Committee, observations by the State Party and additional information provided by the State Party were posted on the Committee's website. A statement on the matter was adopted and made public.
4. The Committee continued the process of drafting general comments No. 9 and No. 10, on article 11 of the Convention, and general comment No. 11, on article 29 of the Convention.
5. The Committee took note of the position of the Human Rights Treaties Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR) that due to the liquidity crisis affecting the regular budget of the Organization, the secretariat of the Committee would be in a position to support the preparation of only one general comment at a time. The Committee decided to establish a working group to carry out preparatory work in the current year for the drafting of a general comment on article 32 of the Convention, on international cooperation, with the support of external partners.
6. In the context of the twentieth anniversary of the adoption of the Convention, the Committee decided to continue, through its various working groups, the preparation of guidelines on identifying and addressing multiple and intersecting forms of discrimination against women and girls with disabilities, to complement its general comment No. 3 (2016), and guidelines on identifying and addressing disability-based violence, to complement its general comment No. 5 (2017) and the guidelines on deinstitutionalization, including in emergencies.
7. The Committee adopted a statement on the situation of persons with disabilities affected by the conflict in the Middle East, the Arab Gulf region and the Persian region. The statement was made public on the Committee's website.
8. The Committee decided that, subject to the availability of funding, its thirty-fifth session was provisionally scheduled to be held in Geneva from 12 to 27 August 2026.
9. The Committee adopted measures to improve its methodology related to constructive dialogues.
10. The Committee decided to organize panel discussions during its thirty-fifth session to celebrate the twentieth anniversary of the adoption of the Convention.
11. The Committee welcomed the decision of the Under-Secretary-General for General Assembly and Conference Management to reverse a previous decision of the Division of Conference Management at the United Nations Office at Geneva not to provide accessibility services – namely International Sign interpretation, remote captioning and Braille – to the Committee and the Human Rights Council. The Committee appreciated the advocacy and support provided by the United Nations High Commissioner for Human Rights, Member

States, the Office of the President of the Human Rights Council, the International Disability Alliance, the World Federation of the Deaf, the Japan Disability Forum, Human Rights Watch and organizations of persons with disabilities to ensure that positive outcome. The Committee called upon the Division of Conference Management to continue to ensure the provision of accessibility services to the Committee and other human rights mechanisms.

12. The Committee noted that cash-conservation measures had been adopted by United Nations departments, under the authority of the Secretary-General, in response to the liquidity crisis affecting the regular budget of the Organization. It regretted that some of those measures had a disproportionate impact on persons with disabilities and affected the implementation of accessibility standards under the United Nations Disability Inclusion Strategy. It also regretted that the measures were adopted without sufficient consultation and participation of the Committee and of persons with disabilities. The Committee requested departments and units operating at the Palais des Nations in Geneva to take into account the impact on accessibility when implementing any such measures and to ensure that the necessary accessibility services are in place during the thirty-fifth session of the Committee.

13. The Committee further expressed concern that holding the session in the Tempus conference room at the Palais des Nations could result in the Committee being separated from the broader United Nations environment in Geneva. It also expressed concern that technical arrangements in Tempus had so far constituted a barrier to the full inclusion of the deaf member of the Committee and to his full participation in the work of the Committee. It encouraged continued efforts to ensure that all members could operate in an inclusive environment within the United Nations Office at Geneva.

14. The Committee requested:

(a) The secretariat of the United Nations Disability Inclusion Strategy, the United Nations Office at Geneva and OHCHR to work in a coordinated manner to restore the provision of International Sign interpretation and national sign language interpretation and to ensure that Hiroshi Tamon, a Committee member who is deaf, receives the support necessary to discharge his functions effectively, in line with article 34 of the Convention and the relevant General Assembly resolutions; in particular, to ensure that sufficient interpretation capacity is available, including at least two interpreters proficient in American Sign Language, and that adequate resources for reasonable accommodation are secured;

(b) The Division of Conference Management at the United Nations Office at Geneva to discontinue the imposition of fees on permanent missions that arranged for the provision of remote national sign language interpretation, which was discriminatory against deaf persons;

(c) All the above-mentioned United Nations entities to ensure that the Committee operates in a fully accessible and inclusive manner and to avoid measures that may adversely affect the rights of persons with disabilities, given that accessibility is not an option, but a duty.

15. The Committee emphasized that the measures requested above were essential to ensure the meaningful participation of deaf persons in the State Parties under review, and of deaf persons worldwide following the constructive dialogues.

16. The Committee reiterated its willingness and availability to continue to engage with the United Nations Office at Geneva and OHCHR, with a view to improving the provision of accessible conference services and reasonable accommodation to members of the Committee and participants with disabilities at its meetings.

17. The Committee welcomed the unanimous decision of the Parliamentary Assembly of the Council of Europe to reject the draft additional protocol to the Convention on Human Rights and Biomedicine, which, if adopted, would allow for the forced institutionalization and forced treatment of persons with disabilities. The Committee also welcomed the reiteration by the Parliamentary Assembly that the Council of Europe must fully integrate the paradigm shift initiated by the Committee into its work. The Committee reiterated its position

that the draft additional protocol to the Convention on Human Rights and Biomedicine should be withdrawn, and called upon the Committee of Ministers of the Council of Europe to reject it.

18. The Committee welcomed the preparatory work carried out by the open-ended intergovernmental working group for the elaboration of a legally binding instrument on the promotion and protection of the human rights of older persons, established by the Human Rights Council. The Committee called upon the working group to ensure the broadest possible participation of and interaction with civil society organizations, including organizations of persons with disabilities. The Committee also calls upon the stakeholders concerned to ensure that the draft instrument recognized the autonomy, will and preferences of older persons and their legal agency to exercise their rights.

19. The Committee noted that, with 193 States Parties, the Convention was the second most ratified human rights treaty. However, it reiterated its concern that the high rate of ratification had not been matched with the allocation of sufficient meeting time and resources. The Committee therefore called upon Member States and all competent United Nations bodies to rectify the situation by increasing the meeting time and resources allocated to the Committee with a third session of at least three weeks' meeting time.

20. Remaining concerned about the increasing number of initial and periodic reports pending its consideration, the Committee called upon Member States and the bodies concerned to grant the Committee sufficient meeting time and resources to address the backlog.

21. The Committee called upon States Parties with long overdue initial reports, as listed in annex II to the present report, to submit their reports as expeditiously as possible. The Committee decided to engage actively, in coordination with the treaty body capacity-building programme of the OHCHR Human Rights Treaties Branch, with States Parties whose initial reports were more than 10 years overdue to build capacity for reporting, and to ensure the consideration of those reports in an expedited manner upon submission.

22. The Committee adopted the report on its thirty-fourth session.

## Annex II

### States Parties whose initial reports are more than five years overdue

<i>State Party</i>	<i>Due date</i>
Guinea	8 March 2010
San Marino	22 March 2010
Yemen	26 April 2011
Syrian Arab Republic	10 August 2011
United Republic of Tanzania	10 December 2011
Malaysia	19 August 2012
Saint Vincent and the Grenadines	29 November 2012
Belize	2 July 2013
Nauru	27 July 2014
Eswatini	24 October 2014
Dominica	1 November 2014
Cambodia	20 January 2015
Barbados	27 March 2015
Papua New Guinea	26 October 2015
Côte d'Ivoire	10 February 2016
Grenada	17 September 2016
Congo	2 October 2016
Guyana	10 October 2016
Madagascar	12 July 2017
Gambia	6 August 2017
Bahamas (The)	28 October 2017
Sao Tome and Principe	5 December 2017
Antigua and Barbuda	7 February 2018
Brunei Darussalam	11 May 2018
Comoros	16 July 2018
Central African Republic	11 November 2018
Suriname	29 April 2019
Fiji	7 July 2019
Libya	13 March 2020
Somalia	6 September 2021
Saint Kitts and Nevis	17 November 2021

## Annex III

### Summary of decisions adopted by the Committee regarding individual communications

#### *M.S. v. Germany*

1. The Committee considered the communication in the case of *M.S. v. Germany*.<sup>1</sup> The author, M.S., was a national of Germany and had autism. In 2006, he had applied for recognition of a “higher degree of disability” and for certain disability card codes, which would have entitled him to travel-related benefits, including being accompanied by another person free of charge on public transportation. On 1 February 2007, the Office of Family and Social Affairs in Chemnitz had recognized that the author had a disability but rejected his application. On an unspecified date, following judicial proceedings, Saxony Regional Social Court had agreed to organize an examination of the author, the report on which stated that the author had an autism spectrum disorder and that his ability to participate in society, including in public meetings, was severely impacted. On 17 May 2017, the author had requested that the oral proceedings be made accessible by conducting them remotely, in writing, over the Internet over a period of several weeks, in a manner similar to an online forum. In letters of 24 and 31 May 2017, the Court had explained to the author that he could send or appear in the company of a representative, that the case could be decided without oral proceedings or that he could participate by video link. The Court had also noted that it had provided him with detailed, advance written information and modified the courtroom to accommodate him, but that communication by online chat would be contrary to the principles applicable to court hearings, including those of oral presentation, immediacy, open justice, the rule of law and open democracy. However, the author had considered that said adjustments would not render the hearing accessible to him, and had not attended the hearing. The Court had consequently conducted the hearing without the author and ordered the defendant to recognize that the degree of disability of the author was 70 per cent. On 21 December 2017, the Federal Social Court had found that article 13 of the Convention and domestic law did not establish a right to an oral hearing in the form of an online chat. It had also rejected his request to be appointed legal counsel. On 27 November 2018, the Federal Constitutional Court had rejected his appeal.

2. The State Party submitted that the communication was inadmissible as manifestly ill-founded.

3. The Committee considered that the author had not substantiated that it was arbitrary for the courts to hold that the specific accommodation sought by him was incompatible with the requirements invoked by Saxony Regional Social Court, including transparency, immediacy and efficient use of human resources and time, in the interests of ensuring the proper administration of justice. The Committee therefore found that the communication was inadmissible under article 2 (e) of the Optional Protocol.

#### *Černáková v. Slovakia*

4. The Committee considered the communication in the case of *Černáková v. Slovakia*.<sup>2</sup> The author was Livia Černáková, and she submitted the communication on behalf of her daughter, Lucia Černáková, who had an intellectual disability and an autism spectrum disorder. From 2 August 2010 until 31 May 2013, Ms. Černáková had been institutionalized in the Harlekýn Social Care Home in Topoľčany. During that period, she had been beaten by employees of the institution, who had instructed other residents to beat her as well. She had been tied up at least six times in what she had described to the author as a straitjacket. Once, her legs had been tied up with a diaper. When anxious, Ms. Černáková would scream, and the staff would respond by restraining her and tying her up until she stopped. She had been locked in an isolation room every night for six weeks to prevent her from calling the nurses. In 2011 and 2013, the author had complained about Ms. Černáková’s ill-treatment to Nitra

<sup>1</sup> CRPD/C/34/D/65/2019.

<sup>2</sup> CRPD/C/34/D/78/2020.

Regional Authority, which had dismissed the complaints. On 9 February 2015, the author had filed a criminal complaint of abuse with Topoľčany Police Department. On 20 March 2015, Topoľčany Police Department had dismissed the complaint in the absence of grounds to open an investigation. The preliminary investigator had interviewed the director of Harlekýn Social Care Home, but not Ms. Černáková. The decision of Topoľčany Police Department had been upheld by the Topoľčany District Prosecutor on 22 April 2015. On 17 July 2015, the Regional Prosecutor had upheld the decision by the District Prosecutor not to open an investigation into the crime of abuse but ordered that an investigation be opened into the crime of restricting Ms. Černáková's personal liberty. During the new investigation, staff members of Harlekýn Social Care Home had denied that she had been restrained or locked in an isolation room. Ms. Černáková herself had not been interviewed. A psychological expert, in an expert opinion requested by the investigator of Topoľčany Police Force District, had concluded that she had "no general [or] specific credibility". On 26 January 2017, the investigator had discontinued the investigation. On 14 March 2017, Topoľčany District Prosecutor's Office had confirmed that decision. On 15 June 2017, the Constitutional Court had dismissed the author's constitutional complaint.

5. The State Party considered that the communication was inadmissible as insufficiently substantiated. The State Party observed that the author had filed a communication with the Committee against Torture on behalf of Ms. Černáková, but that, since the facts of that case were different from those of the present communication, the State Party did not object to the admissibility of the communication on those grounds.

6. The Committee considered that, by not interviewing Ms. Černáková and not providing any procedural accommodation to her, the State Party's authorities had prevented her from participating in the investigation of the ill-treatment of which she had been the alleged victim and thus had not ensured her effective access to justice on an equal basis with others, in violation of her rights under article 13 of the Convention. It also considered that there was no indication that the investigations had been effective and impartial, as no witnesses had been called other than the staff of Harlekýn Social Care Home and no criminal proceedings had been initiated, despite the identification of the staff allegedly responsible, in violation of Ms. Černáková's rights under articles 15 (2) and 16 (5) of the Convention. It further noted that Ms. Černáková had not been interviewed and that her rights to participate in the investigation and to access to justice had thus been impaired on the sole grounds of an assessment of her disability that had had no regard to her requirements for procedural accommodation, in violation of her rights under article 5 of the Convention. The Committee requested the State Party to promptly, impartially and effectively investigate the allegations of ill-treatment of Ms. Černáková, including by interviewing her and providing her with procedural accommodation, and to provide her with an effective remedy. The Committee also required the State Party to take measures to prevent similar violations in the future.

#### ***Rožalovskis v. Latvia***

7. The Committee considered the communication in the case of *Rožalovskis v. Latvia*.<sup>3</sup> The author, Igors Rožalovskis, was a national of Latvia. He had started working at Rīgas Ūdens Ūdens Limited, a municipal water supply company, in 1992. On 29 December 2014, he had stopped his work due to "temporary incapacity" to continue his functions. On 19 June 2015, the author had applied for recognition of his disability. On 2 July 2015, Rīgas Ūdens had issued a notice of termination of the employment contract based on clause 11 of paragraph 1 of section 101 of the Labour Law, which allowed for such termination if the employee had not been working due to temporary incapacity for more than six months. On 26 June 2015, the State Labour Inspectorate had inspected the author's workplace in the context of the investigation into his occupational health, with the participation of representatives of Rīgas Ūdens. On 20 July 2015, the State Medical Commission for the Assessment of Health Condition and Work Ability had issued an assessment in which it recognized that, as at 19 June 2015, the author had a Group III disability caused by "illness". On 26 August 2015, the Occupational Disease Medical Commission, of the Centre for Occupational and Radiological Medicine of Pauls Stradiņš Clinical University Hospital, had ascertained that

<sup>3</sup> CRPD/C/34/D/95/2022.

the author had an occupational disease. On 27 July 2015, the author had filed a claim with Riga City Vidzeme District Court against Rīgas Ūdens, requesting annulment of the termination of his employment and his reinstatement. On 21 September 2015, Riga City Vidzeme District Court had rejected the author's claim on the grounds that he had been diagnosed with an occupational disease after the termination of his employment. On 25 January 2016, Riga Regional Court had upheld his appeal, noting that the employer had been aware of the pending investigation into an occupational disease as a possible cause for his incapacity to work. On 4 July 2017, the Supreme Court had annulled the judgment of Riga Regional Court and remanded the case for retrial. On 11 August 2017, Riga Regional Court had rejected the author's complaint against Rīgas Ūdens in its entirety. On 17 November 2017, the Supreme Court had dismissed the author's cassation appeal. On 26 February 2018, the Constitutional Court had dismissed the author's constitutional complaint.

8. The State Party submitted that the communication was inadmissible as incompatible with the provisions of the Convention and manifestly ill-founded, arguing that it had not discriminated against the author and that at the time of the issuance of the notice of termination of his employment, neither the author nor his employer had had any information to indicate that he would later acquire disability status.

9. The Committee noted that formal recognition of disability was evidentiary rather than constitutive and that, in the present case, Rīgas Ūdens was aware that the author had commenced the procedure for formal recognition of his disability when it had dismissed him. The Committee considered it arbitrary for the State Party's courts to have rejected his challenge on the grounds that his disability had not been formally recognized while another of the State Party's institutions was simultaneously considering the author's application for such recognition. The Committee considered that the courts' reliance on the absence of formal recognition to uphold his dismissal had amounted to discrimination on the basis of disability, in violation of his rights under articles 5 and 27 (1) (a) of the Convention. The Committee requested the State Party to provide the author with an effective remedy, including effective reparation, adequate monetary compensation for the violations of his rights under the Convention and all the support that he required to re-enter the labour market and find another job if he so wished. It also requested the State Party to take measures to prevent similar violations in the future, including by ensuring that the provisions of the Labour Law concerning termination of employment were fully compliant with the Convention and by taking measures to raise awareness of the right of persons with disabilities to work on an equal basis with others.

#### ***J.A. and M.M. v. Serbia***

10. The Committee considered the communication in the case of *J.A. and M.M. v. Serbia*.<sup>4</sup> The authors of the communication were the non-governmental organizations Mental Disability Rights Initiative Serbia and Disability Rights International, and they submitted the communication on behalf of J.A. and M.M. On 1 November 2019, Disability Rights International had conducted a one-hour visit to Duško Radović Home for persons with disabilities in Niš, Serbia, which housed 12 children and adults with disabilities at the time, and had found instances of the "severe neglect" of residents, including J.A. and M.M. The authors noted that J.A. spent most of his days curled up in a cage-like crib. Staff had indicated that J.A. had a spine injury and that they did not move him. J.A. had been diagnosed with unspecified epilepsy, "severe mental retardation" and spastic quadriplegic cerebral palsy; he required a communication device, and he did not move, eat independently, respond to calls or tactile stimulation, establish eye contact or control his sphincters. The authors noted that staff at the Duško Radović Home had told them that M.M. had cried and screamed continuously since his arrival. They had eventually realized that he had been in pain from a severe gum infection and had taken him to a dentist, who had removed all his teeth. M.M. had been diagnosed with "profound mental retardation", Down syndrome and epilepsy, required a communication device and did not respond to tactile stimulation, control his sphincters, walk, establish contact with other children or orient himself in time or space. On

<sup>4</sup> CRPD/C/34/D/103/2022.

15 November 2021, M.M. had passed away. The authors argued that the treatment of J.A. and M.M. at the Duško Radović Home amounted to institutionalization, indefinite segregation and discrimination, among other violations.

11. The State Party argued that the authors had not provided any proof or substantiation of their claim of neglect of persons with disabilities in group homes. The State Party described the various forms of daily care and support provided to J.A. to meet his basic requirements. While, according to the State Party, the guardianship of the Aleksinac Centre for Social Work over J.A. ensured the protection of his rights and interests, family members and third parties retained the possibility of claiming a violation of his rights.

12. In the absence of any information to the contrary, the Committee considered that M.M.'s death had rendered the part of the communication submitted on his behalf as devoid of purpose. With regard to the part of the communication submitted on behalf of J.A., the Committee noted that the authors had done so without his consent. It noted that the authors had visited the Duško Radović Home and documented J.A.'s situation, filed two further requests to be allowed to visit the Duško Radović Home, which the latter had refused, and requested the contact details of J.A.'s mother, which the Aleksinac Centre for Social Work had not provided. The Committee therefore considered that they had undertaken significant efforts to establish further contact with J.A., who remained under State guardianship. The Committee further considered that J.A.'s placement in the Home, the latter's refusal to allow for subsequent visits by the authors and the refusal by the Aleksinac Centre for Social Work to provide the authors with the contact details of J.A.'s mother had isolated him and had obstructed any possibility for him to communicate his consent, or absence thereof, to the submission of the communication. The Committee also took into consideration that the authors advanced the rights of J.A. as a person with disabilities. The Committee therefore considered that the authors had adequately justified that they had a legitimate interest in acting on behalf of J.A. and that they could not reasonably obtain access to him. The Committee thus concluded that the authors had justified that they were acting on behalf of J.A. without his consent. However, the Committee noted that the authors had not made any attempts to engage domestic remedies, and that they had not contested the State Party's observation that third parties could file a claim of a violation of J.A.'s rights domestically. The Committee thus considered that the authors had not justified the failure to exhaust domestic remedies, and therefore declared the communication inadmissible under article 2 (d) of the Optional Protocol.

#### ***N.V.H. et al. v. Argentina***

13. The Committee decided to discontinue its consideration of the communication in the case of *N.V.H. et al. v. Argentina*.<sup>5</sup> The Committee considered that the secretariat had lost contact with the authors, as they had not provided comments on the State Party's observations, despite a reminder.

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<sup>5</sup> [CRPD/C/34/D/99/2022](#).