



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities Eighth session

#### Summary record of the 82nd meeting

Held at the Palais Wilson, Geneva, on Friday, 21 September 2012, at 10 a.m.

*Chairperson:* Mr. McCallum

### Contents

Consideration of reports submitted by States parties under article 35 of the Convention  
(*continued*)

*Initial report of Hungary* (continued)

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*The meeting was called to order at 10 a.m.*

**Consideration of reports submitted by States parties under article 35 of the Convention** (continued)

*Initial report of Hungary* (continued) (CRPD/C/HUN/1; CRPD/C/HUN/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Hungary took places at the Committee table.*

*Articles 1–10 and 11–20*

2. **Ms. Nagy** (Hungary), replying to questions posed at the previous meeting, said that precise data on the proportion of Roma children enrolled in special education could not be provided because collecting data on ethnic background was prohibited under the Data Protection Act. Information provided voluntarily by parents, however, suggested that the proportion was notably above average. A decree issued by the Ministry of Education in 2010 aimed to protect minority groups against discrimination. New legislation had made it compulsory for independent experts to assess, monitor and review the placement of children in special education. If the initial diagnosis was found to have been incorrect, the child was reintegrated in mainstream education. The new procedures worked well, and only two out of hundreds of initial assessments had been questioned by the experts, who had the authority to recommend which type of school a child should attend. The proportion of children diagnosed with mild intellectual disabilities had fallen in Hungary from 2.1 to 1.6 per cent.

3. **Mr. Juhász** (Hungary) said that the Government was taking steps to incorporate the Convention's definition of disability into Hungarian law. It was engaged in consultations with disabled persons' organizations and relevant State agencies and intended to finalize the work on definitions by the end of 2012. Consultations on the other provisions of the Convention would then follow.

4. **Ms. Sebestyén** (Hungary) said that the national crisis management system, which included regional and national networks of shelters for domestic violence victims, as well as hotline services, had been established in accordance with the principles set forth in the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The number of shelters had increased from 11 to 14 between 2011 and 2012. In 2012, over 2,000 victims of abuse and violence had used the system's services, and 668 children had been taken in by the shelters.

5. **Mr. Tallódi** (Hungary) said that, under new measures introduced in 2009, the police could issue detention orders to protect victims of violence and abuse. A project on the issue of violence against children had been implemented that same year by the Ombudsman. A study had been made of the shelters available for children requiring special care. It was important for the police and other authorities to coordinate their activities regarding guardianship and special custody arrangements. Crimes against persons with disabilities were not categorized as separate offences under the Criminal Code. Since 2012, however, offences in which the victim was a person with a disability had been considered as more serious and punished accordingly.

6. **Ms. Kissné Horváth** (Hungary) said that rehabilitation programmes for child victims of domestic violence were being funded by Norway. The Government also wished to develop programmes for children with rare disabilities or who suffered from rare diseases.

7. **Mr. Juhász** (Hungary) said that the accessibility of the public transport system was a Government priority. All new units purchased for the system had to meet accessibility standards, albeit within the financial limitations of the purchaser. Accessibility considerations had been fully taken into account in the construction of the new line of the Budapest underground, which was due to open shortly. Air transportation was not a public service in Hungary and was therefore not within the Government's remit. It was subject to the European Union directives on transportation, however.
8. **Ms. Kissné Horváth** (Hungary) informed the Committee that, by law, abortions were allowed up to the twelfth week of pregnancy on the grounds of serious health problems and up to the twentieth week if the foetus had a severe disability or a life-threatening condition. Couples could also elect to discontinue a pregnancy if they already had several children with severe disabilities. The Government's approach to abortion was to emphasize prevention: it focused on promoting family planning and advising couples on how to avoid unwanted pregnancies. Antenatal care, screenings and advice were provided free of charge, and there were special services for women with disabilities to ensure that they had healthy pregnancies and safe deliveries.
9. **Ms. Mógor** (Hungary) said that the protection of persons with disabilities in situations of risk and humanitarian emergencies was governed by the laws on homeland defence and disaster management. Building permits were granted only if specific requirements on the rescue and evacuation of persons with disabilities were met. Disaster management personnel were well trained and had locally adapted plans and procedures and special tools for rescuing and evacuating people with different types of disability. The fire brigade had a special unit that was trained to handle the specific needs of persons with disabilities in emergencies. In 2011, a programme had been introduced to provide children with age-appropriate information to help prepare them for emergencies. An adapted version of the programme, based on the specific needs of 3- to 18-year-olds with disabilities, had been introduced in 2012.
10. **Mr. Tallódi** (Hungary) said that the new Civil Code provided for both full and partial limitation of legal capacity. Legal capacity in all cases had to be determined by the courts and on the basis of individuals' family circumstances and social situation, as well as their functional capacity. Supported decision-making was a new concept in Hungarian law, but henceforth persons with disabilities, if they wished, could be assisted by a person appointed by the local guardianship authority, as agreed by the court. The court could not overrule the decisions of persons with disabilities in that regard.
11. **Mr. Szóke** (Hungary) said that the statute on the rights of persons with disabilities was under review and that the definition of the terms "disability" and "persons with disabilities" would be addressed.
12. **Mr. Tallódi** (Hungary) said that, under the new Criminal Code, persons whose disability or mental state prevented them from recognizing the danger or criminality of their actions could not be punished for them.
13. **Mr. Pállo** (Hungary) said that alternative punishments were ordered for offenders with psychosocial disabilities; there were 23 centres that provided suitable treatment in such cases.
14. **Ms. Csicsely** (Hungary) noted that any inhumane treatment of persons with psychosocial disorders in institutions was duly sanctioned.
15. **Mr. Pállo** (Hungary) said that the prison service was governed by a number of laws and regulations. All punishments, including prison sentences, were subject to judicial review. The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) had commended Hungary on its work in torture

prevention. Overcrowding was a problem, as it was in many countries, but there was no torture or inhuman or degrading treatment or punishment of detainees in Hungary, and no prisoners were subjected to medical treatment or experimentation in violation of the law. The Ombudsman received complaints from all persons, including detainees, and made recommendations on a wide range of matters, including on accessibility for detainees with disabilities. Prison visits were regularly made by Government authorities and the Hungarian Helsinki Committee, which was the main human rights organization in the country.

16. **Ms. Csicsely** (Hungary) said that the strategy for replacing large social institutions that provided care for persons with disabilities with community-based alternatives had been formulated after broad consultation with national NGOs, Hungarian citizens and persons with disabilities. Most of their observations had been incorporated in the 30-year strategy, which was divided into three-year action plans, the first of which would be evaluated in January 2014. An independent committee, composed, inter alia, of representatives of NGOs and persons with disabilities, would perform the evaluation. Studies on the feasibility of the strategy had been conducted, as had an assessment of residents' needs. All NGOs would be authorized to review the interim reports.

17. The supported living allowance funded services for persons with disabilities, including psychosocial disabilities, and addicts, among others, and was intended to promote independent living.

18. Group homes resembled ordinary apartment buildings and consisted of independent flats and common areas capable of accommodating a maximum of 30 persons; they were entirely accessible, and residents were free to come and go at will. Such homes could be located only in built-up areas near public transport services but not in close proximity to one another. A new needs assessment method had been introduced for future residents of group homes, as well as an orientation course. There were plans to make the services offered to group home residents available also to people with disabilities who lived in their own homes.

#### *Articles 21–33*

19. **Ms. Cisternas Reyes** asked how, and using which indicators, Hungary measured the quality of both inclusive and special education for students with disabilities, and whether it applied the relevant European Union standards. She enquired what percentage of persons with disabilities had access to rehabilitation services, either in specialized centres or in community-based settings, and what types of technical aids were provided by the Government, particularly to low-income persons.

20. She requested information on the status of the 2012 census, to which the State party had referred in its replies to the list of issues (CRPD/C/HUN/Q/1/Add.1). In particular, she wished to know what percentage of persons with disabilities, disaggregated by sex and including self-employed persons and workers in cooperatives, participated in the labour market. She asked what effect the amendments made to the Civil Code in the area of guardianship would have on labour law, given that existing rules prohibited persons with disabilities who had been placed under guardianship from entering into an employment contract even with the consent of their legal guardian, and whether there were plans to amend that rule.

21. **Mr. Ríos Espinosa** asked whether he had understood correctly that alternative measures were imposed on offenders who lacked legal capacity and were therefore not liable to criminal prosecution. If that was indeed the case, he would like to know what safeguards had been established to ensure that such measures were not more severe than the penalties or sanctions that would otherwise apply. He enquired whether, prior to taking a decision on placing a child in mainstream or special education, the committee of experts

responsible for that decision consulted the child's parents or the child and whether their opinion was taken into account.

22. **Mr. Langvad** said that Regulation (EC) No. 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air required signatory States to ensure national implementation. The same applied to Directive 2001/85/EC of the European Parliament and of the Council of 20 November 2001 relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver's seat, and amending Directives 70/156/EEC and 97/27/EC, which stipulated that all new buses must meet standards of accessibility for persons with disabilities. The delegation should clarify statements made earlier in the course of the interactive dialogue regarding those regulations and their application in Hungary.

23. **Mr. Juhász** (Hungary) said that all new purchases of trams, buses or trains in Hungary had to meet standards of accessibility for persons with disabilities. As to air travel, as he had stated previously, owing to the scope of the European Union regulation cited by Mr. Langvad, further regulation in that area was not possible. In that connection, he wished to draw the Committee's attention to the fact that Hungary did not have domestic commercial air traffic, only international commercial flights.

24. **Mr. Langvad** asked why persons with disabilities who had been placed under guardianship could be denied the right to vote in Hungary and what obstacles prevented the Government from ensuring that all persons enjoyed voting rights. He recalled that article 29 of the Convention safeguarded the right of all persons, irrespective of the type of disability they had, to enjoy political rights on an equal basis with others. Furthermore, the European Commission for Democracy through Law (Venice Commission) of the Council of Europe, of which Hungary was a member State, had stated that no person could be denied the right to vote, and the Committee was currently negotiating with the Human Rights Committee on a proposal to amend that Committee's general comment No. 25 on the right to participate in public affairs, voting rights and the right of equal access to public service, in order to make it clear that persons with disabilities could not be denied voting rights.

25. **Ms. Degener** asked why, in accordance with the new Fundamental Law, decisions concerning suffrage for persons with disabilities were to be made on a case-by-case basis by a court. She requested additional information on the transitional provisions adopted with regard to persons who had been placed under guardianship and stripped of the right to vote prior to the entry into force of the Fundamental Law.

26. As requested in paragraph 22 of the list of issues (CRPD/C/HUN/Q/1), the delegation should state whether tools and services on sexual and reproductive health were available to persons with disabilities in accessible formats and technologies and in augmentative and alternative modes, as well as in sign language.

27. Lastly, she asked whether the National Disability Council was independent of the Government and whether it adhered to the Paris Principles. If that was not the case, she wondered whether consideration might be given to establishing a unit on disability within the office of the parliamentary commissioner on citizen rights for the purpose of monitoring Hungary's implementation of the Convention.

28. **Ms. Maina** asked to what extent people with psychosocial disabilities participated in the formulation and amendment of laws in Hungary. She enquired whether the State party had clearly understood that article 24, taken together with article 12, of the Convention, required States parties to move away from a medical approach to persons with psychosocial disabilities: such persons were to be regarded not as sick but as having a disability that entitled them to receive rehabilitation in conditions that respected their preferences and autonomy. In order to guarantee such conditions, health professionals must be trained in the

provisions of the Convention. She was concerned that mental health practices and rehabilitation programmes for people with psychosocial disabilities had still not been brought into conformity with articles 12 and 13 of the Convention. Given that the Government was reforming its laws, she wished to encourage it to consult with experts during the process in order to guarantee that it did not fall short of its obligations under the articles in question. She supported Mr. Langvad's views on the importance of ensuring that people with mental and intellectual disabilities enjoyed the right to vote on an equal basis with others.

29. **Ms. Quan-Chang** said that she would welcome additional information on places of detention holding inmates with mental and intellectual disabilities. In particular, she wished to have details concerning the solitary confinement of such persons and the so-called "medical treatments" performed on them, which potentially constituted torture or cruel, inhuman or degrading treatment or punishment. It was not clear whether the National Disability Council was the mechanism that monitored compliance with the Convention in Hungary. If it was not, she wondered when the State party planned to establish an independent body to carry out that function.

30. **Ms. Peláez Narváez** said that she welcomed the inclusion of disability as an aggravating circumstance in the Criminal Code. She was concerned at the State party's reply to the issues raised in paragraph 19 of the list of issues, to the effect that the State Secretariat for Health Care had drafted a professional protocol regarding medical sterilization. The existence of such a protocol did not justify the continuation of the practice of medical sterilization of persons with disabilities, which was a clear violation of their human rights. The delegation should provide further explanation.

31. She would appreciate additional information on the measures being taken by the Government to reduce the number of children with disabilities who were separated from their parents and subsequently institutionalized. She also wished to know what steps were being taken to implement the recommendation of the Committee on the Rights of the Child in that regard. Lastly, she asked whether mothers with disabilities were allowed to raise their children at home, whether special gynaecological examination beds were available for women with reduced mobility and whether accessible mammography machines were made available for wheelchair-bound women.

32. **Mr. Tatić** said that he wished to know how many of the shelters for women and children who were victims of domestic violence were accessible to persons with disabilities. It would be useful to receive more information from the delegation on the type of accommodation made for children with disabilities who were enrolled in mainstream education. As the concept of reasonable accommodation was relatively new in Hungary, perhaps the Committee could assist the State party in better applying it.

33. **Mr. Kim Hyung Shik** asked for an explanation of the term "permanent boarding institutions", noting that the number of places at such institutions appeared to be increasing, notwithstanding the State party's deinstitutionalization strategy. He observed that there was some confusion in the initial report surrounding the concept of reasonable accommodation, which did not, as the report seemed to indicate, entail providing special education. There was similar confusion throughout the document surrounding the distinction between the terms "integration" and "inclusion". He would appreciate additional information regarding the State party's implementation of article 33, paragraph 3, of the Convention.

34. **Mr. Ben Lallahom** asked whether persons with disabilities were represented in the legislature in Hungary. If not, he wondered whether they were represented by NGOs and if the latter were able to participate in drafting legal texts and to have their opinions taken into account.

35. **The Chairperson**, speaking in his personal capacity, asked what forms of reasonable accommodation were provided for blind and visually impaired children who wished to attend mainstream schools.

36. **Ms. Cisternas Reyes** asked whether, since the entry into force of the Convention for the State party, a register had been kept of the persons who had been sterilized in accordance with a request made to the courts by their legal guardian.

37. **Ms. Yang Jia** asked what steps the Government took to promote the employment of persons with disabilities in public sector jobs and what efforts were made in order to encourage their advancement to jobs requiring higher skills, given that most jobs for persons with disabilities in sheltered factories required a low skill set.

*The meeting was suspended at 11.30 a.m. and resumed at noon.*

38. **Ms. Kissné Horváth** (Hungary) said that the network of shelters for women and children with disabilities who were victims of domestic violence was made up of facilities that were wholly or partially accessible. Additional data would be supplied to the Committee in due course.

39. **Ms. Bódiné Pajer** (Hungary) said that the Government did its utmost to help children with disabilities live at home with their parents, providing the latter with generous allowances and making special services available.

40. **Ms. Kissné Horváth** (Hungary) said that professional and patient organizations participated in the formulation and review of protocols relating to psychosocial patients and persons with psychosocial disabilities. Progress was being made in developing a uniform system that did not distinguish between those groups.

41. **Mr. Pallo** (Hungary) said that persons with severe mental disabilities who committed an offence that endangered the life or personal inviolability of another individual were not punished; rather, they underwent mandatory treatment as ordered by a court. They were held in specialized medical treatment facilities for a period no longer than the maximum custodial sentence for the offence, and their condition was reviewed every six months. Those with less severe mental disabilities were subject to a custodial sentence but also participated in group therapy while serving their sentence.

42. Any cases of abuse, torture or unacceptable treatment of persons deprived of their liberty were prosecuted to the fullest extent of the law and publicly reported on the website of the Hungarian Helsinki Committee. A special programme offering legal assistance and legal representation to detainees had shown positive results. Strong emphasis was placed on providing initial and in-service training for custodial staff in line with European Union standards.

43. **Ms. Csicsely** (Hungary) said that the forced sterilization of women with disabilities was prohibited unless ordered by a court.

44. **Ms. Bódiné Pajer** (Hungary) said that persons with disabilities currently in residential care were the target group of the Government's deinstitutionalization strategy, which, thus far, had been applied at four large institutions. Supported living arrangements were provided on the basis of a complex assessment of the needs of the persons concerned, taking their wishes into account. In the future, her Government hoped to create new institutions adapted to residents' needs.

45. **Ms. Nagy** (Hungary) said that, under the Public Education Act, children with special needs received the same quality of education as other children and were guaranteed access to suitable teachers and tools. Schools that in the past had taught children with special needs exclusively had been converted into pedagogical centres to provide support to mainstream schools attended by those students. Under a regulation passed in 2010, children

with special needs were examined by experts, who then recommended a list of suitable schools. The child's parents then had 10 working days to choose a school from the list. If the parents did not accept the recommendations, they could initiate an administrative procedure involving independent experts, but that rarely happened.

46. Measures were being taken to ensure that the costs of providing reasonable accommodation in schools were covered by local governments and were not a significant burden on parents. Schoolchildren could take tests orally rather than in writing if needed. When enrolling in school, children with special needs could indicate their intent to make use of all reasonable accommodation available to them under the law. Sign language interpretation and computers with large-size fonts were available to students. Textbooks were approved for use in schools only if the publisher also offered an edition for visually impaired children.

47. The decision to place a child in mainstream or special education was reviewed annually, or at the parents' request. Fewer than 20 per cent of all children with special needs in Hungary attended special schools. At the secondary level, accessible dormitories were available for children with special needs and children with disabilities.

48. **Ms. Sebestyén** (Hungary) said that the Ministry of State for Social Inclusion attached great importance to education for children with disabilities. A special programme had been launched for children with multiple disadvantages, including disabilities, poverty and other problems, through which they received psychosocial as well as educational support.

49. **Mr. Szőke** (Hungary) said that the Government supported inclusive education and provided various tools and aids to allow children with disabilities to attend mainstream schools. Several schools had invited tenders for projects to make their infrastructure as well as their information and communication technologies more accessible. It was important to train all teachers in methods for teaching children with disabilities. Nevertheless, dedicated institutions with specialized teachers could also be worthwhile and in some cases might be the only viable option.

50. **Mr. Juhász** (Hungary) said that, as from 2014, the parents of deaf or hearing impaired children would have the option of either inclusive or bilingual education, in Hungarian and sign language, for their children.

51. **Ms. Kissné Horváth** (Hungary) said that strict legal safeguards were in place to protect the rights of persons with limited legal capacity. Any person who took part in a medical experiment must voluntarily sign a consent form. A review of clinical studies was under way to ensure that they included persons suffering from rare diseases, so that all persons with disabilities could enjoy full access to new clinically-tested products.

52. Mammograms were available in all regions of the country, and 70 per cent of women concerned were screened regularly. Mammography machines were fully accessible to women with disabilities, and a centralized system was being established to ensure that women with disabilities throughout the country also had access to other tests and treatments, such as screening for cervical cancer.

53. The Government intended to provide all State institutions with a list of the various types of support and assistance they were required to provide to persons with disabilities, and to help institutions launch those services as quickly and efficiently as possible.

54. **Ms. Nagy** (Hungary) said that individualized rehabilitation was provided in high schools as part of the curriculum for children with disabilities. The cost of those services was covered by the social security system. Various medical devices and support aids were available during rehabilitation, and in the future the Government would like to introduce a system allowing students to borrow such devices for use at home. In 2011, a new wing of

the national rehabilitation centre had been inaugurated. The new facility was the only one of its kind in the European Union and offered multiple types of rehabilitation, including psychosocial rehabilitation.

55. **Mr. Dávid** (Hungary) said that 15,000 people had thus far participated in an employment rehabilitation project covering the period 2010–2013, and of those 8,000 had found new jobs. As soon as the project was completed, a new one along the same lines would take its place. It was true that most persons with disabilities in the labour market performed low-skilled jobs. As an incentive to employers to hire persons with disabilities, the Government had issued a regulation requiring them to pay a special tax if persons with disabilities constituted less than 5 per cent of their workforce. The Government funded a network of 32 NGOs that provided an alternative labour market for persons with disabilities, and it hoped to improve the network in the future.

56. **Mr. Pallo** (Hungary) said that, under new regulations, a person's legal capacity could be limited only through a court decision issued by a judge following a full review of the person's specific situation. Persons under guardianship whose legal capacity had not been limited under such a procedure could conclude labour contracts.

57. **Ms. Nagy** (Hungary) said that, under the Higher Education Act, educators in higher education institutions should be trained in ways to meet the needs of students with disabilities. Since 2007, there had been a significant increase in the number of students with disabilities attending higher education institutions.

58. **Mr. Tallódi** (Hungary) said that, once the new regulations on guardianship came into force, only in exceptional cases would a court be able to issue a decision limiting the right of a person with a psychosocial disability to participate in elections. That individualized approach constituted a major step forward. Under the transitional provisions accompanying the Fundamental Law, persons under guardianship who did not have the right to vote as at 1 January 2012 could apply for a judicial review. The court would then establish whether the problem leading to the limitation of their rights still existed.

59. **Mr. Soltész** (Hungary) thanked the Committee members for their participation in the constructive dialogue. He said that the nature of their questions indicated that they held high expectations of the Government of Hungary, and he assured them that any gaps would be addressed in due course. The cooperation initiated between the Government and the Committee would lead to both long- and short-term results.

60. **Mr. Tatić** (Country Rapporteur) said that he was very satisfied with the responses he had received to his questions, and he applauded the delegation for its willingness to continue to cooperate with the Committee, whose expectations were indeed high given that Hungary had been one of the first States to ratify the Convention. He hoped that the dialogue with the Committee would help the Government to finalize the new Civil Code, in consultation with civil society, so that national law could be brought in line with article 12 of the Convention. He also hoped that the Government would reflect further on the rather lengthy period of 30 years allotted to achieving complete deinstitutionalization, and on how best to reach that goal. He welcomed the fact that the concept of reasonable accommodation was applied in practice in the country, and he hoped that national law would be amended to classify the denial of reasonable accommodation as a form of discrimination.

*The meeting rose at 12.55 p.m.*