



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 eighteenth session (14–31 August 2017)

I. States parties to the Convention and the Optional Protocol thereto

1. As at 31 August 2017, the date on which the eighteenth session closed, there were 174 States parties to the Convention on the Rights of Persons with Disabilities and 92 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 eighteenth session of the Committee

2. The eighteenth session opened in a public meeting with welcoming remarks by the Chair of the Committee. The opening statement of the Office of the United Nations High Commissioner for Human Rights (OHCHR) was delivered by the Chief of the OHCHR Groups in Focus Section and is available on the Committee's website. The Chair also delivered a statement.

3. The Committee reviewed and adopted the provisional agenda and tentative programme of work for the eighteenth session (CRPD/C/18/1).

III. Membership of the Committee

4. The list of members of the Committee as at 31 August 2017, 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 adopted the decisions contained in annex I to the present report.

V. Activities related to general comments

6. The Committee considered the report of its working group on the right to live independently and be included in the community on progress in drafting a general comment on article 19 of the Convention. The Committee adopted in a public meeting its general comment No. 5 (2017) on living independently and being included in the community. The Committee held a day of general discussion on the right of persons with disabilities to



equality and non-discrimination, endorsed a draft general comment on article 5 of the Convention and decided to make a call for submissions regarding the latter.

VI. Activities related to the Optional Protocol

7. On 18 August, the Committee considered four communications. With regard to communication No. 22/2014 (*X. v. the United Republic of Tanzania*), the Committee found that the decisions and actions of the State party relating to the violent acts suffered by the author, a person with albinism, had amounted to a violation of articles 5, 15 and 17, read in conjunction with article 4, of the Convention. In communication No. 30/2015 (*Makarov v. Lithuania*), the Committee found that the denial of reasonable accommodation and legal support to a person with disability, which had prevented her from taking part in the hearings related to her case, had amounted to a violation of her rights under articles 12 (3) and 13 (1) of the Convention. The Committee declared communication No. 28/2015 (*O.O.J et al v. Sweden*) inadmissible for non-exhaustion of domestic remedies. It also decided to discontinue communication No. 16/2013 (*Ricci v. Australia*) because the subject matter of the complaint had become moot after the author had obtained the non-institutional social support and accommodation that he had required.

8. On 31 August, the Committee adopted the report of the Special Rapporteur on new communications on the complaints received since the seventeenth session and the status of registered communications.

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

VII. Other decisions

10. The Committee adopted the present report on its eighteenth session.

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

VIII. Future sessions

12. The nineteenth session of the Committee is scheduled to be held from 14 February to 9 March 2018 and will be followed by the ninth meeting of the pre-sessional working group, from 12 to 16 March 2018.

IX. Accessibility of the Committee's meetings

13. Remote captioning was provided by the United Nations in all official public and in one private meeting and was facilitated by organizations of persons with disabilities. International Sign interpretation was provided during public meetings. National sign language interpretation was provided during the dialogues with four States parties to the Convention. Russian Sign Language interpretation was provided in all public and private meetings. Webcasting was provided during public meetings. No induction loop was available during the session.

X. Cooperation with relevant bodies

A. Cooperation with United Nations organs and specialized agencies

14. At the opening meeting of the session, representatives of the following United Nations agencies, departments and programmes made statements: OHCHR, the Office of

the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the World Health Organization and the World Intellectual Property Organization.

15. The Bureau of the Committee met with the Special Rapporteur on the rights of persons with disabilities to discuss matters relating to coordination of the mandate of the Special Rapporteur with that of the Committee.

B. Cooperation with non-governmental organizations and other bodies

16. The Committee was addressed by representatives of the Global Alliance of National Human Rights Institutions, the International Committee of the Red Cross, the Global Initiative for Inclusive Information and Communication Technologies, the International Disability Alliance, the World Blind Union and organizations of persons with disabilities from the countries considered by the Committee during the session.

17. A thematic side event on the linkages between the right to equality and non-discrimination and the 2030 Agenda for Sustainable Development and the Sustainable Development Goals was organized by the Global Alliance of National Human Rights Institutions and the International Disability Alliance.

XI. Consideration of reports submitted in accordance with article 35 of the Convention

18. The Committee considered the initial reports of Latvia (CRPD/C/LVA/1), Luxembourg (CRPD/C/LUX/1), Montenegro (CRPD/C/MNE/1), Morocco (CRPD/C/MAR/1), Panama (CRPD/C/PAN/1) and the United Kingdom of Great Britain and Northern Ireland (CRPD/C/GBR/1). The Committee adopted concluding observations on those reports, which are available from its website.

19. The Committee adopted lists of issues under the simplified reporting procedure regarding Argentina (CRPD/C/ARG/QPR/2-3), Australia (CRPD/C/AUS/QPR/2-3), Ecuador (CRPD/C/ECU/QPR/2-3) and Tunisia (CRPD/C/TUN/QPR/2-3).

XII. Conference of States Parties to the Convention

20. The Committee confirmed that it would be represented at the eleventh session of the Conference of States Parties to the Convention by its Chair and one Vice-Chair.

Annex I

Decisions adopted by the Committee at its eighteenth session

1. The Committee adopted concluding observations in relation to the initial reports of the following countries: Latvia (CRPD/C/LVA/1), Luxembourg (CRPD/C/LUX/1), Montenegro (CRPD/C/MNE/1), Morocco (CRPD/C/MAR/1), Panama (CRPD/C/PAN/1) and the United Kingdom of Great Britain and Northern Ireland (CRPD/C/GBR/1).
2. The Committee adopted lists of issues under the simplified reporting procedure in relation to the following countries: Argentina (CRPD/C/ARG/QPR/2-3), Australia (CRPD/C/AUS/QPR/2-3), Ecuador (CRPD/C/ECU/QPR/2-3) and Tunisia (CRPD/C/TUN/QPR/2-3).
3. The Committee considered matters related to its communication and inquiry procedures pursuant to articles 6 and 7 of the Optional Protocol. The Committee considered four communications. It found violations in two of them. A summary of the Views and decisions of the Committee can be found in annex II to the present report.
4. The Committee adopted its general comment No. 5(2017) on living independently and being included in the community.
5. On 25 August 2017, the Committee organized a day of general discussion on article 5 of the Convention, on non-discrimination. It also endorsed a draft general comment on article 5 and decided to make a call for submissions to all interested stakeholders. The deadline for submissions is 15 November 2017.
6. With regard to countries to be considered at its nineteenth session and country rapporteurs, the Committee decided to consider the following countries: Haiti (Coomaravel Pyaneandee), Nepal (Hyung-Shik Kim), Oman (Danlami Basharu), the Russian Federation (Damjan Tatic/László Gábor Lovaszy), Seychelles (Coomaravel Pyaneandee), Slovenia (Jonas Ruskus) and the Sudan (Martin Babu). The Committee also decided to adopt a list of issues under its simplified reporting procedure regarding Costa Rica, New Zealand, Paraguay and the Republic of Korea. The Committee instructed its Secretariat to inform all concerned permanent missions of those countries.
7. The Committee decided that its nineteenth session would be held from 14 February to 9 March 2018 and would be followed by the ninth meeting of the pre-sessional working group, from 12 to 16 March 2018. During the latter, the Committee requested its working group to adopt list of issues of Algeria, Cuba, Malta, the Philippines, Poland, South Africa and the former Yugoslav Republic of Macedonia. The Committee instructed its Secretariat to inform the countries concerned.
8. The Committee decided to initiate the drafting process of a general comment on articles 4 (3) and 33 (3) of the Convention in the near future.
9. The Committee adopted the report on its eighteenth session.

Annex II

Summary of the Views and Decisions adopted by the Committee regarding communications submitted under the Optional Protocol to the Convention on the Rights of Persons with Disabilities

1. The Committee examined communication No. 30/2015 (*Makarov v. Lithuania*). The communication had been submitted by Boris Makarov on behalf of his deceased wife, Glafira Makarova. In 2005, Ms. Makarova had been the victim of a road accident and as a result had suffered multiple bodily injuries. Subsequently, a government medical commission had established a disability ratio of 60 per cent. She had also suffered from headaches, loss of memory and of physical capacity. Ms. Makarova's health had continued to deteriorate until November 2011, when she succumbed to the consequences of the brain injury she had received during the accident. In 2006, during the investigation into the road accident, Ms. Makarova had requested to be kept informed about the progress of the investigation, but those requests had been ignored by the authorities. Also, owing to her health condition and disability, she had been unable to participate in court hearings and had requested to be assigned a lawyer to represent her in her status of victim. Those requests had been rejected. In addition, the court had not provided a copy of the verdict and, as a result, she had been unable to file an appeal. The author claimed that the State party's decisions and practice had amounted to a violation of his wife's rights under articles 12, 13 and 22, of the Convention. In its decision finding violations of the Convention, the Committee noted that, owing to her disability, the author's wife had been unable to participate in court hearings herself and had been denied her right to be represented, despite her requests. The Committee noted the State party's submission that a lawyer had been appointed but had failed to appear at hearings. The Committee recalled provisions of article 12 (3) and 13 (1) in that the State parties must take measures to provide access to persons with disabilities to exercise their legal capacity and shall ensure effective access to justice for persons with disabilities on an equal basis with others, in order to facilitate their effective role as direct and indirect participants. The Committee came to the conclusion that Ms. Makarova had not been provided accommodation to be heard during the court hearings and had not been afforded legal assistance to be able to file for an appeal. Accordingly, the Committee considered that the State party had failed to fulfil its obligations under articles 12 (3) and 13 (1). The Committee requested the State party to provide the author with an effective remedy and access to court and investigation records. The Committee also requested the State party to adopt the amendments necessary to its laws to ensure that persons with disabilities could have access to free legal assistance whenever necessary.

2. The Committee examined communication No. 28/2015 (*O.O.J et al v. Sweden*). The author of the communication was O.O.J, a Nigerian national. He had submitted the communication on his own behalf and on behalf of his son, E.O.J, his wife, F.I.J, and his daughter, E.J. The author's son had been diagnosed in 2013 with autism and unspecified psychosocial disabilities. The author had alleged that the deportation of the family from Sweden to Nigeria would amount to a violation of articles 3, 4, 5, 7, 12, 13, 15, 24, 25, 26 and 28 of the Convention. On 25 January 2012, the application by the author and his wife for residence permits had been rejected by the Swedish Migration Agency and a deportation order had been issued. Subsequent appeals to the Migration Court and the Migration Court of Appeal had been rejected and the decision had become final on 13 November 2012. Owing to the insecurity in Nigeria, the family had feared returning there. They had therefore filed an application for asylum on 10 January 2013. The author had submitted the information about his son's diagnosis with autism and other unspecified psychosocial disabilities to the Migration Agency in support of the asylum application. On 30 April 2014, the family's application for asylum had been rejected by the Migration Agency. The Agency had found that the family had not plausibly demonstrated that they would personally be at risk of harm if deported to Nigeria. The decision had been subsequently upheld by the Migration Court and the Migration Court of Appeal. In November 2014, the author and his wife had applied for the expulsion order not to be enforced under an

impediment to enforcement procedure and for them to be granted residence permits on the grounds of their son's disability. On 9 January 2015, the Migration Agency had rejected their application on the grounds that medical care for children with autism and pre-schools for children with autism were available in Nigeria. The author had claimed that deporting the family to Nigeria would deprive his son of access to adequate health care and education, as well as to the habilitation and rehabilitation programmes he needed, and would amount to inhuman and degrading treatment considering the nature of his son's disability. The State party had requested the Committee to find the communication inadmissible for failure to exhaust domestic remedies, noting that the decision to expel the author, his wife and his son had been statute-barred and no longer enforceable as of 13 November 2016 and that, consequently, the family had the possibility to reapply for residence permits in the State party and obtain a new full examination by the domestic authorities. In its considerations, the Committee recalled that domestic remedies did not need to be exhausted if they objectively had no prospect of success, but that mere doubts as to the effectiveness of those remedies did not absolve the author from the obligation to exhaust them. The Committee found that it could not conclude that a new application submitted by the author and his family before the State party authorities could not bring effective relief. The Committee therefore concluded that the communication was inadmissible under article 2 (d) of the Optional Protocol.

3. The Committee examined communication 22/2014 (*X v. The United Republic of Tanzania*). The author was born on 12 January 1969 with albinism. On 10 April 2010, he had been fetching firewood when two men asked him for tobacco. As he bent down to get it from his plastic bag, the men hit him on the head with clubs. The author lost consciousness and the men hacked off half of his left arm from below the elbow and left him. When he regained consciousness, the author was in great pain and screamed for help. Villagers took him to the Morogoro municipal hospital. The author's arm was never found and it was assumed that the men had taken it. The matter was reported to the police, but no investigation had been instituted by the competent authorities of the State party. Private prosecution was not possible in the United Republic of Tanzania. No other remedies were therefore available under domestic criminal law. To initiate civil proceedings, victims must submit their application before the high court of their place of residence. As there was no high court in the Morogoro region where he lived, the author would have had to travel to Dar Es Salaam to submit his case. In addition, on 20 March 2009, other persons with albinism who had suffered similar experiences had filed a constitutional petition against the State before the High Court with the support of specialized non-governmental organizations. By the date of the examination of the author's complaint to the Committee, more than six years after the event, the matter still had not been heard by the High Court. The Committee concluded that the author had exhausted all available effective remedies and had been victim of a direct discrimination based on his disability, in violation of article 5 of the Convention. It also found that the failure by the State party to investigate the case and prosecute the suspected perpetrators, as well as its failure to support the author and to take preventive measures, had resulted in a re-victimization of the author, who had endured mental suffering qualifying as torture and inhuman and degrading treatment, in violation of article 15, and a violation of his physical integrity, under article 17.

4. The Committee decided to discontinue the consideration of communication No. 16/2013 since, in December 2014, the State party had reported that, following the submission of his complaint to the Committee, the author had been given accommodation in the community when the adapted social housing and funding for support services had become available. That information was not contested by the author, who was no longer institutionalized. The subject matter of the complaint had therefore become moot.