



# 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 sixteenth session (15 August-2 September 2016)

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

1. As at 2 September 2016, the date on which the sixteenth session closed, there were 166 States parties to the Convention on the Rights of Persons with Disabilities and 89 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 sixteenth session of the Committee

2. The sixteenth 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 was delivered by the Chief of the Groups in Focus Section of the Human Rights Treaties Division and is available on the Committee's website. The Chair also delivered a statement, which is available on the website.

3. The Committee reviewed and adopted the provisional agenda and tentative programme of work for the sixteenth session (CRPD/C/16/1).

#### III. Membership of the Committee

4. The list of members of the Committee as at 2 September 2016, 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.

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## V. Activities related to general comments

6. The Committee considered the report of its working group on women and girls with disabilities and further discussed and adopted, after a public reading, its general comment No. 3 (2016) on women and girls with disabilities.

7. The Committee further discussed and adopted, after a public reading, its general comment No. 4 (2016) on the right to inclusive education.

8. 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.

## VI. Activities related to the Optional Protocol

9. On 19 August 2016, the Committee examined the note by the Secretary-General on new communications received between its fifteenth and sixteenth sessions. As at 15 August 2016, the Committee had received a total of 304 communications concerning States parties to the Optional Protocol. The Committee has thus far registered 37 cases. In 13 cases, the Committee has taken final decisions, finding a violation in eight cases, finding no violation in two cases and finding three communications inadmissible. Of the 24 pending cases, one was examined during the sixteenth session (communication No. 7/2012). Of the others, eleven are ready for examination on admissibility and the merits, and two for examination on admissibility. In all the other cases, comments and observations remain pending.

10. On 19 August and 2 September 2016, the Committee examined communication No. 7/2012 (*Noble v. Australia*). For the first time under its communication procedure, the Committee considered a case of a person with an intellectual disability who had been declared unfit to stand trial and deprived of his liberty in a correctional centre for more than 13 years. The Committee found that the author's detention was contrary to article 14 of the Convention, which outlaws deprivation of liberty on the basis of impairment. The Committee was also of the opinion that the author's right to effective access to justice and a fair trial had been infringed. It found that the prolonged detention of uncertain duration, coupled with the violence to which the author was subjected by other detainees and against which he was unable to protect himself, amounted to inhuman or degrading treatment in violation of article 15 of the Convention. A summary of the facts of the case and the Views of the Committee is contained in annex II to the present report.

11. On 2 September, the Committee adopted the report of the Special Rapporteur on follow-up to Views. The Committee decided to maintain its procedure of follow-up to Views with regard to communications No. 1/2010 (*Nyusti and Takács v. Hungary*), No. 4/2011 (*Bujdosó et al. v. Hungary*) and No. 21/2014 (*F. v. Austria*), and to send new letters to the States parties concerned to request additional information on the measures taken to implement specific parts of the Committee's recommendations.

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

## VII. Other decisions

13. The Committee adopted the present report on its sixteenth session.

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

## **VIII. Future sessions**

15. The seventeenth session of the Committee is scheduled to be held from 20 March to 12 April 2017 and will be preceded by the seventh meeting of the pre-sessional working group, from 13 to 17 March 2017.

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

16. Captioning was provided by the United Nations in all public and private meetings and was facilitated, in some side events and lunch briefings, by organizations of persons with disabilities. International Sign interpretation was provided during public meetings. National sign language interpretation was provided during the dialogues with two States parties to the Convention. Webcasting was provided on a pilot basis during public meetings.

## **X. Cooperation with relevant bodies**

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

17. At the opening meeting of the session, representatives of the following United Nations agencies, departments and programmes made statements: the Office of the United Nations High Commissioner for Refugees, in its capacity as Chair of the Inter-Agency Support Group on the Convention on the Rights of Persons with Disabilities, the Office of the High Commissioner for Human Rights, the United Nations Children's Fund, the World Intellectual Property Organization, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the United Nations Mine Action Service, the United Nations Office for Disaster Risk Reduction and the secretariat of the Human Rights Council task force on accessibility.

18. 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.

19. The Bureau of the Committee met with the Bureau of the Committee on the Elimination of Racial Discrimination and the Bureau of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to discuss matters related to the intersectional discrimination.

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

20. The Committee was addressed by representatives of the International Disability Alliance, the International Disability and Development Consortium, the European Network on Independent Living, the World Federation of the Deaf, Inclusion International, the International Longevity Centre Global Alliance, Alzheimer's Disease International, Dementia Alliance International, and organizations of disabled persons from some of the countries considered by the Committee during the session.

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

21. The Committee considered the initial reports of Bolivia (Plurinational State of) (CRPD/C/BOL/1), Colombia (CRPD/C/COL/1), Ethiopia (CRPD/C/ETH/1), Guatemala (CRPD/C/GTM/1), Italy (CRPD/C/ITA/1), the United Arab Emirates (CRPD/C/ARE/1) and Uruguay (CRPD/C/URY/1). The Committee adopted concluding observations on those reports, which are available from the Committee's website. The Committee adopted a list of issues in relation to the initial report of Canada (CRPD/C/CAN/Q/1).

## **XII. Conference of States Parties to the Convention**

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

## **XIII. Tenth anniversary of the Convention on the Rights of Persons with Disabilities**

23. The Committee held a public event on 1 September 2016 to celebrate the tenth anniversary of the Convention on the Rights of Persons with Disabilities. Statements were delivered by the High Commissioner for Human Rights, the Chair of the Committee, the Special Rapporteur on the rights of persons with disabilities, the incoming Chair of the Committee and one member of the Committee.

## Annex I

### Decisions adopted by the Committee at its sixteenth session

1. The Committee adopted concluding observations in relation to the initial reports of the following countries: Bolivia (Plurinational State of) (CRPD/C/BOL/CO/1), Colombia (CRPD/C/COL/CO/1), Ethiopia (CRPD/C/ETH/CO/1), Guatemala (CRPD/C/GTM/CO/1), Italy (CRPD/C/ITA/CO/1), the United Arab Emirates (CRPD/C/ARE/CO/1) and Uruguay (CRPD/C/URY/CO/1).
2. The Committee adopted Views on communication No. 7/2012 (*Noble v. Australia*). It also adopted the note by the Secretary-General on submissions received between the fifteenth and sixteenth sessions, and its interim follow-up report with regard to Views under the Optional Protocol.
3. The Committee adopted its general comment No. 3 (2016) on women and girls with disabilities and its general comment No. 4 (2016) on the right to inclusive education.
4. The Committee adopted guidelines on independent monitoring frameworks and their participation in the work of the Committee.
5. The Committee adopted guidelines on periodic reporting, including under the simplified reporting procedure.
6. The Committee considered matters related to its inquiry procedure pursuant to articles 6 and 7 of the Optional Protocol.
7. The Committee decided to establish a working group to examine the confidentiality of issues discussed in private meetings.
8. The Committee decided that its seventeenth session would be held from 20 March to 12 April 2017 and would be preceded by the seventh meeting of the pre-sessional working group, from 13 to 17 March 2017.
9. With regard to countries to be considered at its seventeenth session and country rapporteurs, the Committee decided to consider Armenia (Jonas Ruskus), Bosnia and Herzegovina (László Lovászy), Canada (Theresia Degener), Cyprus (Stig Langvad), Honduras (Carlos Parra Dussan), Iran (Islamic Republic of) (Monthian Buntan), Jordan (Damjan Tatić) and the Republic of Moldova (Jonas Ruskus).
10. The Committee adopted the present report on its sixteenth session.

## Annex II

### Summary of the Views on communications submitted under the Optional Protocol

1. On 19 August and 2 September 2016, the Committee examined communication No. 7/2012 (*Noble v. Australia*). The author of the communication has a mental and intellectual disability. When he was 19 years old, he was charged with two counts of sexual penetration of a child under the age of 13, and three counts of indecent dealing with a child aged between 13 and 16. He was arrested and taken into custody, and was refused bail. In view of expert reports, he was declared unfit to stand trial and was made subject to a custody order pursuant to sections 16 and 19 of the Mentally Impaired Defendants Act. The author therefore did not have the opportunity to plead not guilty, and the Court made no finding of guilt. Responsibility for oversight of the author's custody order was vested in the Mentally Impaired Defendants Review Board, which determined that the author was to be detained in custody. He remained in detention from March 2003 to 10 January 2012, when he was discharged on a conditional release order.

2. The Committee considered that the decision that the author was unfit to plead because of his intellectual and mental disability had resulted in a denial of his right to exercise his legal capacity to plead not guilty and to test the evidence presented against him. It noted that no adequate form of support was provided by the State party's authorities to enable the author to stand trial and plead not guilty, despite his clear intention to do so. The Committee considered that the author was not provided with adequate support or accommodation to ensure him effective access to justice and a fair trial, in violation of his rights under articles 12 (2) and (3) and 13 (1) of the Convention.

3. The Committee also considered that the author's detention had been decided on the basis of the assessment by State party's authorities of the potential consequences of his intellectual disability, in the absence of any criminal conviction, thereby converting his disability into the core cause of his detention in violation of article 14 (1) (b) of the Convention, according to which "the existence of a disability shall in no case justify a deprivation of liberty". As regards the author's allegations that he was subject to frequent incidents of violence and abuse, the Committee noted that his disability prevented him from protecting himself against such acts, and that the State party's authorities did not take any measures to sanction and prevent them or to protect the author from them. Additionally, the Committee noted that the author was detained for more than 13 years without any indication as to the duration of his detention. Taking into account the irreparable psychological effects that indefinite detention may have on the detained person, the Committee concluded that the indefinite detention to which the author was subjected amounted to inhuman and degrading treatment in violation of article 15 of the Convention.

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