



Convention on the Rights of Persons with Disabilities

Distr.: General
26 April 2023

Original: English

Committee on the Rights of Persons with Disabilities

Report of the Committee on the Rights of Persons with Disabilities on its twenty-eighth session (6–24 March 2023)

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

1. As at 24 March 2023, the date on which the twenty-eighth session closed, there were 186 States parties to the Convention on the Rights of Persons with Disabilities and 104 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 twenty-eighth session of the Committee

2. The twenty-eighth session opened in a public meeting with welcoming remarks by the Chief of the Civil, Political, Economic, Social and Cultural Rights Section, Human Rights Treaty 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 agenda¹ and programme of work for the twenty-eighth session.

III. Membership of the Committee

4. The list of members of the Committee as at 24 March 2023, indicating the duration of their terms of office, is available on the Committee's website.

IV. Election of the Bureau

5. The election of the Bureau was led by the Chief of the Civil, Political, Economic, Social and Cultural Rights Section. The following members were elected for a term of two years, in accordance with rules 15, 16 and 17 of the Committee's rules of procedure:

<i>Chair:</i>	Gertrude Oforiwa Fefoame
<i>Vice-Chairs:</i>	Amalia Eva Gamio Ríos Odelia Fitoussi Rosemary Kayess
<i>Rapporteur:</i>	Vivian Fernández de Torrijos

¹ CRPD/C/28/1.



V. Working methods

6. The Committee discussed various issues related to its working methods and decided to continue updating and streamlining its working methods during the intersessional period.

VI. Activities related to general comments

7. The Committee held a day of general discussion on persons with disabilities in situations of risk and humanitarian emergencies. It also held several private briefings with partners with specific expertise on matters related to article 11 of the Convention on the Rights of Persons with Disabilities.

VII. Activities related to the Optional Protocol

8. The Committee examined three communications. It found violations of the Convention in two of them: *Mangisto and al-Sayed v. State of Palestine*,² regarding the disappearance and arbitrary detention of two persons with disabilities; and *García Vara v. Mexico*, concerning the failure to provide reasonable accommodation and accessibility with regard to the tertiary education system. In the third case, *P.L. et al. v. France*,³ concerning withdrawal of life support from a person with disabilities, the Committee declared the communication inadmissible, as it concluded that the authors of the communication lacked standing to act on behalf of the alleged victim.

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 on Views between the twenty-third and twenty-eighth sessions pursuant to the Committee's rules of procedure, as well as the Committee's assessments and decisions concerning the follow-up.

10. The Views and decisions adopted by the Committee regarding the communications will be made available on the Official Document System⁴ and the Committee's website. A summary of the Views and decisions adopted at the twenty-eighth session may be found in annex III to the present report.

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

VIII. Future sessions

12. The twenty-ninth session of the Committee is provisionally scheduled to be held in Geneva from 14 August to 9 September 2023, and will be followed by the eighteenth meeting of the pre-sessional working group, from 11 to 14 September 2023.

IX. Accessibility of the Committee's meetings

13. The twenty-eighth session of the Committee was held in a hybrid format, with Committee members participating in person in Geneva, most delegations of States parties participating in person and some delegations participating remotely online. Stakeholders, including organizations of persons with disabilities, civil society organizations, national human rights institutions, and specialized agencies and other United Nations bodies, participated in person or virtually. International Sign interpretation, national sign language interpretation and remote captioning were available. Public meetings were webcast. No plain language or Easy Read versions of documents were available during the session. The

² [CRPD/C/28/D/67/2019-CRPD/C/28/D/68/2019](#).

³ [CRPD/C/28/D/59/2019](#).

⁴ See <https://documents.un.org/>.

software used for the registration of participants for the meeting was not accessible for blind participants or those with visual impairments. Current protocols for vehicles entering the Palais des Nations still posed barriers for participants with disabilities who required accessible transportation. Reasonable accommodation, including in the organization of travel for Committee members with disabilities, continued to be poorly developed.

X. Cooperation with relevant bodies

A. Cooperation with United Nations organs and specialized agencies

14. At the opening meeting of the session, a representative of the World Health Organization made a statement. At the closing meeting, representatives of the United Nations Population Fund (UNFPA) and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture made statements.

B. Cooperation with non-governmental organizations and other bodies

15. At the opening meeting of the session, the Committee was addressed by representatives of the International Disability Alliance, the Global Albinism Alliance, the European Disability Forum, the Coalición Interamericana para la Desinstitucionalización de Personas con Discapacidad, the Disability Rights Fund, the International Communication Rights Alliance, the Citizens Commission of Human Rights, and United Cities and Local Governments, and a representative of the judicial branch of the Province of Buenos Aires.

16. Representatives of the independent monitoring mechanism of Peru and the national human rights institution of Georgia participated in the Committee's public review of the initial reports of Peru and of Georgia, respectively. During the private meetings on country situations, the Committee had the opportunity to gather information from and interact with several organizations of persons with disabilities, civil society organizations and independent monitoring mechanisms, including national human rights institutions.

17. At the closing meeting of the session, the International Disability Alliance addressed the Committee.

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

18. The Committee held six constructive dialogues; five were held in person and one online. The Committee considered the initial reports of Angola, Georgia and Togo,⁵ and the combined second and third periodic reports of Argentina, of Peru and of Tunisia.⁶ It adopted concluding observations in relation to those reports.⁷ A list of States parties whose initial reports are more than five years overdue may be found in annex II to the present report.

XII. Other decisions

19. The Committee adopted the present report on its twenty-eighth session.

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

⁵ CRPD/C/AGO/1, CRPD/C/GEO/1 and CRPD/C/TGO/1.

⁶ CRPD/C/ARG/2-3, CRPD/C/PER/2-3 and CRPD/C/TUN/2-3.

⁷ CRPD/C/AGO/CO/1, CRPD/C/ARG/CO/2-3, CRPD/C/GEO/CO/1, CRPD/C/TGO/CO/1, CRPD/C/PER/CO/2-3 and CRPD/C/TUN/CO/2-3.

Annex I

Decisions adopted by the Committee at its twenty-eighth session

1. The Committee adopted concluding observations in relation to the initial reports of Angola, Georgia and Togo.¹ It also adopted concluding observations in relation to the combined second and third periodic reports of Argentina, of Peru and of Tunisia.²
2. The Committee considered three individual communications submitted for its consideration under the Optional Protocol to the Convention. It found violations of the Convention in two of them (*Mangisto and al-Sayed v. State of Palestine*³ and *García Vara v. Mexico*) and declared the third inadmissible (*P.L. et al. v. France*⁴). A summary of the Views and decisions of the Committee may be found in annex III to the present report. The Views and decisions would be transmitted to the parties as soon as possible and would subsequently be made public. The Committee also adopted a follow-up report on Views.
3. The Committee considered matters related to inquiries pursuant to the Optional Protocol.
4. The Committee held a day of general discussion related to its draft general comment No. 9 on persons with disabilities in situations of risk and humanitarian emergencies.
5. The Committee decided that its working languages in the biennium 2023–2024 would be Arabic, English, French and Spanish.
6. The Committee decided that its twenty-ninth session would be held in Geneva from 14 August to 8 September 2023, subject to confirmation by the Secretariat of the feasibility of an in-person session, and would be followed by the eighteenth meeting of the pre-session working group, from 11 to 14 September 2023. The Committee adopted a provisional programme of work for its twenty-ninth session.
7. The Committee decided to continue its work on updating and streamlining its working methods. It decided to streamline the methods of work for private briefings, including by identifying areas in current guidelines on the participation of organizations of persons with disabilities in the work of the Committee that required further implementation or amendment; to carry out intersessional work; and to pilot the revised methods of work for private briefings during the next session. It also decided to establish, on a pilot basis, task forces for the preparation for and conduct of constructive dialogues with States parties.
8. The Committee decided to continue engaging with the United Nations Office at Geneva and the Office of the United Nations High Commissioner for Human Rights, with a view to improving the provision of accessible conference services and reasonable accommodation to members of the Committee and participants with disabilities at Committee meetings.
9. The Committee decided to continue implementing, still on a pilot basis, the database project offered by Fundación Saraki.
10. In response to a request from the Bolivarian Republic of Venezuela, the Committee prepared comments and advice on a bill on the rights of persons with disabilities, for transmission to the State party on 31 March 2023.
11. The Committee adopted the report on its twenty-eighth session, and its seventh biennial report to the General Assembly and the Economic and Social Council.

¹ CRPD/C/AGO/CO/1, CRPD/C/GEO/CO/1 and CRPD/C/TGO/CO/1.

² CRPD/C/ARG/CO/2-3, CRPD/C/PER/CO/2-3 and CRPD/C/TUN/CO/2-3.

³ CRPD/C/28/D/67/2019-CRPD/C/28/D/68/2019.

⁴ CRPD/C/28/D/59/2019.

Annex II

States parties whose initial reports are more than five years overdue

<i>Party</i>	<i>Due date</i>
Guinea	8 March 2010
San Marino	22 March 2010
Lesotho	2 January 2011
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
Cabo Verde	10 November 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
Guinea-Bissau	24 October 2016

Annex III

Summary of Views and decisions adopted by the Committee regarding individual communications

P.L. et al. v. France

1. The Committee examined the communication in the case of *P.L. v. France*.¹ The authors of the communication were P.L., V.L., D.P. and A.T., the father, mother, brother and sister, respectively, of V.L., a national of France born on 20 September 1976, who died on 11 July 2019. The family claimed that V.L. had been the victim of violations by the State party of articles 1, 3, 4, 15, 16, 17, 25 and 26 of the Convention.

2. Upon registration of the communication and in subsequent notes verbales, dated 17 May 2019 and 2 July 2019, the Committee issued a request for interim measures under article 4 of the Optional Protocol, requesting the State party to take the steps necessary to ensure that V.L.'s tube feeding and hydration were not suspended while the Committee considered his case. On 7 May 2019, the State party notified the Committee that it was unable to comply with the Committee's request, as the decision to halt the treatment had been deemed to be in conformity with the law by multiple domestic courts and the European Court of Human Rights.

3. V.L. was quadriplegic and in a state of impaired consciousness following an accident that occurred on 29 September 2008. After the accident, he was hospitalized at Reims University Hospital. He was variously diagnosed as being in a minimally conscious state or in a vegetative state. He was fed and hydrated through a gastrostomy tube. On 8 April 2013, following an initial collective procedure, a doctor decided to withdraw V.L.'s nutrition and hydration, considering that the continuation thereof appeared to be futile, disproportionate and to have no other effect than artificially sustain life within the meaning of article 1110-5 of the Public Health Code,² and thus was not in keeping with V.L.'s right to refuse unreasonable therapeutic obstinacy. On 11 May 2013, the Châlons-en-Champagne Administrative Court reversed the decision, because the authors had not been informed. However, sensory stimulation was not resumed.

4. A second decision to withdraw V.L.'s nutrition and hydration was overturned on 16 January 2014 by the Châlons-en-Champagne Administrative Court, but upheld on 24 July 2014 by the Council of State. In a judgment dated 5 June 2015, the European Court of Human Rights found that implementation of the decision of the Council of State would not result in a violation of article 2 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). A third collective procedure was suspended pending a request to initiate a guardianship measure. By a ruling dated 10 March 2016, the Reims *tribunal d'instance* (court of minor jurisdiction) appointed V.L.'s wife, R.L., as his guardian. A fourth collective decision to stop the nutrition and hydration was upheld on 31 January 2019 by the Châlons-en-Champagne Administrative Court, and on 24 April 2019 by the Council of State. V.L. died on 11 July 2019, following the withdrawal of feeding and hydration.

5. In its Views, the Committee noted that as V.L. had not been able to consent to the submission of the communication, the Committee had to determine whether the authors had standing to act on his behalf. The Committee therefore examined whether the communication expressed the wishes and preferences of V.L. The Committee noted that the communication was closely linked to the issue of the withdrawal of his nutrition and hydration. It also noted that the Council of State had examined V.L.'s wishes extensively, including his repeated statements to his wife that he wished not to be kept alive artificially if he were to find himself in a highly dependent state. The Committee thus noted that the domestic courts had concluded

¹ CRPD/C/28/D/59/2019.

² Amended by the act on patients' rights and end-of-life situations of 22 April 2005 (known as the "Leonetti act").

that V.L. would not have wished to be in the condition in which he was being sustained. It was therefore not convinced that the communication represented the assumed wishes of V.L. Accordingly, the Committee concluded that the authors lacked standing to act on behalf of V.L. and declared the communication inadmissible under article 1 of the Optional Protocol.

Mangisto and al-Sayed v. State of Palestine

6. The Committee examined communications in the cases of *Mangisto and al-Sayed v. State of Palestine*.³ The communications were submitted by family members of the alleged victims. The authors noted that both alleged victims had been diagnosed with psychosocial disabilities, and that owing to their disabilities they had crossed into the Gaza Strip in 2014 and 2015, where the authors claimed that the alleged victims had been subjected to enforced disappearance. The authors claimed a violation of the alleged victims' rights under articles 4, 10, 11, 12, 14, 15, 16 and 25 of the Convention.

7. In its consideration of the admissibility of the communication, the Committee examined, among other matters, the issues of jurisdiction. It noted the State party's submission that the restrictions imposed by the blockade of the Gaza Strip limited its ability to access that area and conduct an effective investigation into the alleged violations. The Committee noted the jurisprudence of the European Court of Human Rights and the Inter-American Court of Human Rights, which had concluded that even in the absence of effective control by a State over parts of its territory, it still had a positive obligation to take the diplomatic, economic, judicial or other measures that were in its power to take and that were in accordance with international law to secure to the residents in such a territory the rights guaranteed to them. The Committee therefore considered that notwithstanding the existing limitations on the State party's ability to exercise its authority in the Gaza Strip, the alleged victims were within its jurisdiction within the meaning of article 1 of the Optional Protocol.

8. As to the merits of the case, the Committee observed that the question before it was to determine whether the State party had discharged its positive obligations to take appropriate and sufficient measures that were within its power to take in order to secure the alleged victims' rights as guaranteed by the Convention. The Committee noted in that connection that the State party had not provided any specific information on any such measure it had taken, or had attempted to take. In particular, the State party had not provided information on any measure taken to inquire about the fate and whereabouts of the alleged victims or the conditions of detention. Neither had it provided information on any attempts to engage the de facto authorities in the Gaza Strip to address the alleged victims' situation; to facilitate and secure their release and safe return to their families; to guarantee their placement under the protection of the law; to ensure that they had access to adequate health care, taking into account their psychosocial disabilities and particularly vulnerable situation; and to enable them to be in contact with their families, relatives and representatives. The Committee concluded that the failure by the State party to take, or attempt to take, any such measure to investigate, verify or inquire into the fate and whereabouts of the alleged victims, including with regard to the alleged risk to their lives, the alleged ill-treatment they had endured, the alleged deprivation of liberty, and access to health care, amounted to a violation of the victims' rights under articles 10, 14, 15 and 25, read alone and in conjunction with article 11 of the Convention.

9. The Committee requested the State party to provide the authors with an effective remedy, including compensation for any legal costs incurred in filing the communications. It also requested the State party to take, in accordance with international law, all diplomatic, economic, judicial or other measures available in order to: conduct a prompt investigation that is effective, thorough, impartial, independent and transparent into the circumstances of the alleged disappearance and arbitrary detention of the victims, with a view to establishing the truth and securing their safe return to their families; provide the authors with detailed information on the outcome of the investigation; and guarantee the victims' safety and access to medical care, including in relation to their disability, as well as contact with their families and representatives.

³ CRPD/C/28/D/67/2019-CRPD/C/28/D/68/2019.

García Vara v. Mexico

10. The Committee examined the communication in the case of *García Vara v. Mexico*.⁴ The author of the communication is Selene Militza García Vara, a national of Mexico born on 21 October 1980. She claimed that the State party had violated her rights under articles 1, 2, 4, 5, 6, 8, 9 and 24 of the Convention by not guaranteeing the accessibility of tertiary education and by failing to make the reasonable accommodation she required during the process for admission to a bachelor of visual arts programme.

11. In 2014, the author, a woman with an intellectual disability, applied for a place in the bachelor of visual arts programme at the Morelense Centre for the Arts. After having participated in the selection process, she learned that she had not been admitted, as she had failed most of the tests. The author claimed that the selection process had been conducted using a formal model of equality, without any reasonable accommodation being made with regard to tests that applicants were required to take, even though officials and others at the Centre had been aware of her disability. She also claimed that the State party had not taken sufficient legislative, administrative and other measures to realize her right to tertiary education on an equal basis with others, as the Centre was not accessible for persons with disabilities.

12. In its Views, the Committee considered that the State party had not demonstrated that it had taken the legislative, administrative and other measures required, including the adoption of policies on reasonable accommodations and the training of staff at tertiary education institutions, to ensure the accessibility of inclusive tertiary education for the author. Specifically, the State party had not ensured the accessibility of the bachelor of visual arts programme at the Morelense Centre for the Arts, including the accessibility of entrance examinations, information and communications tools, curricula, educational materials, teaching methods, assessments and language and support services, on an equal basis with others and without discrimination. Regarding the author's claims concerning the lack of reasonable accommodation during the admissions process, the Committee considered that, while it was necessary to have requirements concerning the knowledge and skills needed to gain admission to tertiary education, such requirements must take into account the specific needs of candidates with disabilities. The Committee noted that, although officials and others at Morelense Centre for the Arts had been aware of the author's intellectual disability when she had applied for the programme, they had not initiated a dialogue with her to determine what reasonable accommodations were needed for her to take part in the assessments common to all candidates, such as granting her extra time and providing her with the support of a specialized professional to ensure that she correctly understood test expectations. The Committee therefore considered that, by not making the necessary reasonable accommodations during the admissions process, the Centre had not ensured the author's participation on an equal basis with other candidates who did not have disabilities, resulting in her exclusion from tertiary education. The Committee concluded that the State party had violated articles 5 and 24, read alone and in conjunction with articles 4 and 9 of the Convention. It also concluded that the State party had violated article 24, read alone and in conjunction with articles 4 and 8 of the Convention, by failing to fulfil its obligation to combat stereotypes, prejudices and harmful practices regarding persons with intellectual disabilities in the sphere of education.

13. The Committee requested the State party to provide the author with an effective remedy, including reimbursement of any legal costs she had incurred, together with appropriate compensation for the harm suffered, taking into account the loss of employment opportunities stemming from her being denied her right to tertiary education; and, should it remain the author's wish, guarantee her right to tertiary education by ensuring the accessibility of the admissions process at an educational institution of her choosing, including through the provision of any necessary reasonable accommodation. It also requested the State party to provide for, in law and policy, the establishment of an inclusive education system at all levels – primary, secondary, post-secondary and life-long learning – including with regard to support measures, the provision of reasonable accommodation, and adequate funding and training for educational staff; establish complaints mechanisms and legal remedies that were

⁴ [CRPD/C/28/D/70/2019](#).

independent, effective, accessible, transparent, safe and applicable to cases of violations of the right to education; and take measures to raise awareness of and challenge stereotypes, prejudices and harmful practices relating to persons with disabilities, targeting in particular practices affecting women and girls with disabilities, persons with intellectual disabilities and persons with intensive support requirements.
