



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Follow-up progress report on individual communications*

A. Introduction

1. The present report was prepared pursuant to article 5 of the Optional Protocol to the Convention, which states that the Committee will hold closed meetings when examining communications under the Optional Protocol and, after examining a communication, will forward its suggestions and recommendations, if any, to the State party concerned and to the petitioner. The report is also prepared in line with rule 75, paragraph 7, of the rules of procedure of the Committee, which stipulates that the Special Rapporteur or working group will regularly report to the Committee on follow-up activities, to ascertain the measures to be taken by States parties to give effect to the Committee's Views.

2. The present report sets out the information received by the Special Rapporteur for follow-up on Views between the nineteenth and twenty-first sessions pursuant to the Committee's rules of procedure, and the analyses and decisions adopted by the Committee during its twenty-first session. The assessment criteria were as follows:

Assessment criteria

Action satisfactory

A Measures taken largely satisfactory

Action partially satisfactory

B1 Substantive action taken, but additional information required

B2 Initial action taken, but additional action and information required

Action not satisfactory

C1 Reply received but actions taken do not implement the Views/recommendations

C2 Reply received but not relevant to the Views/recommendations

No cooperation with the Committee

D1 No reply to one or more recommendations or parts of recommendations

D2 No reply received following reminder(s)

Measures taken are contrary to the recommendations of the Committee

E The reply indicates that the measures taken go against the Views/recommendations of the Committee

* Adopted by the Committee at its twenty-first session (11 March–5 April 2019).



B. Communications

1. *Nyusti and Takács v. Hungary* (CRPD/C/9/D/1/2010)

- Views adopted: 16 April 2013
- First reply from the State party: Due on 24 October 2013. Received on 8 January 2014. Analysed at the eleventh session (see CRPD/C/11/5).
- Authors' comments (first set): Received on 13 March 2014. Analysed at the eleventh session (see CRPD/C/11/5).
- Decision adopted at the eleventh session: Follow-up letter sent to the State party on 8 May 2014 (see CRPD/C/12/3), with a deadline for comments of 7 November 2014.
- Second reply from the State party: Received on 29 June 2015 and 27 May 2016. Analysed at the sixteenth session (see CRPD/C/16/3).
- Decision adopted at the sixteenth session: Follow-up ongoing.

Action taken

On 6 June 2016, the Special Rapporteur for follow-up on Views sent a letter to the State party: (a) welcoming the compensation that had been paid to the author; and (b) requesting updated information on the implementation of Committee's Views, the implementation of the four-year development programme for automatic teller machines and the outcome of the consultations initiated by the State party.

Third reply from State party: Received on 3 August 2016.

The State party noted that:

(a) The keyboard of all automatic teller machines operated by OTP Bank either included Braille or had a central button with an embossed sign. By the end of 2015, 115 machines had been equipped with an audio kit. The plan was to increase that number by the end of 2016. The bank was committed to having an audio-kit-enabled machine in each branch;

(b) OTP Bank had started to refurbish branches to be accessible to persons with visual impairments in 2015 by installing tactile guide strips. As part of the project, tactile guide strips had been installed in the 119 most visited branches. That process had continued in 2016, with installations in 14 additional branches. As a result, 33 per cent of the bank branches were accessible for persons with visual impairments. The State party added that 98 per cent of the branches were now accessible for wheelchair users. To provide equal access to persons with hearing impairments, 33 per cent of branches were equipped with a signal amplifier. Sign language courses were offered continuously for bank employees;

(c) Regarding the consultations on the legislative framework, Decree No. 22/2016 (VI. 29) had been passed on 29 June 2016, regulating equal access of persons with disabilities to financial services in credit institutions. One of the requirements of the legislative framework was to formulate a strategy to help facilitate equal access of persons with disabilities to financial services. Credit institutions were under an obligation to adopt such a strategy and policy by 15 September 2016, and to review and, if necessary, update them every two years.

Action taken

16 August 2016: Acknowledgement of the follow-up information sent to the State party and transmittal to the authors for comments, with a deadline for response of 17 October 2016.

27 March 2017: First reminder sent to the authors, with a deadline for response of 26 May 2017.

19 January 2018: Second reminder sent to the authors, with a deadline for response of 19 March 2018.

Decision

“A” assessment: The measures adopted by the State party are largely satisfactory. The Committee therefore decides to discontinue the follow-up procedure.

A letter will be sent to the State party and to the authors, informing them that the follow-up procedure is discontinued, with an “A” assessment that will be included in the Committee’s biannual report.

2. *Bujdosó et al. v. Hungary (CRPD/C/10/D/4/2011)*

Views adopted:	9 September 2013
First reply from the State party:	Received on 26 March 2014 (see CRPD/C/12/3).
Authors’ comments (first and second sets):	Received on 5 May 2014 (see CRPD/C/12/3).
Decision adopted at the eleventh session:	Follow-up letter sent to the State party on 8 May 2014 (see CRPD/C/12/3), with a deadline for comments of 7 November 2014.
Second reply from the State party:	Received on 8 July 2014 (see CRPD/C/12/3).
Authors’ comments (third set):	Received on 25 August 2015.
Third reply from the State party:	Received on 29 June 2015 (see CRPD/C/16/3).
Decision adopted at the fifteenth session:	Follow-up ongoing. Follow-up letter sent to the State party on 14 June 2016 (see CRPD/C/16/3), with a deadline for comments of 9 August 2016.
Fourth reply from the State party:	Received on 12 August 2016 (see CRPD/C/16/3).
Authors’ comments (fourth set):	Received on 17 August 2016 (see CRPD/C/16/3).
Action taken:	Follow-up letter sent to the State party on 18 November 2016 (see CRPD/C/17/3).
Fifth reply from the State party:	Received on 17 January 2017 (see CRPD/C/17/3).
Authors’ comments (fifth set):	Received on 10 March 2017 (see CRPD/C/17/3).
Closed meeting of the Special Rapporteur with the State party:	6 April 2017
Decision adopted at the seventeenth session:	“D1” assessment: follow-up ongoing. Follow-up letter sent by the Special Rapporteur on 23 November 2017, with a deadline for response of 23 January 2018.
Sixth reply from the State party:	Received on 10 July 2018.

The State party indicated that the Ministry of Human Resources had concluded contracts with the authors in March and April 2017 on the basis of which compensation and reimbursements of costs amounting to 300,000 forint (approximately 1,072 United States dollars) had been paid to the authors’ bank accounts. Zsolt Bujdosó and Sándor Mészáros had signed the contracts themselves. The contracts for the authors who were under guardianship had been signed by their respectively appointed guardians. The compensation and the costs reimbursed could be used at the request of the guardian on behalf of the authors under guardianship.

Action taken

The State party's follow-up reply was transmitted to the authors for comments, with a deadline for response of 15 October 2018.

7 February 2019: first reminder sent to the authors, with a deadline for response of 7 April 2019.

Decision

"B2" assessment: Follow-up ongoing. Awaiting authors' comments.

3. *F v. Austria* (CRPD/C/14/D/21/2014)

Views adopted:	21 August 2015
First reply from the State party:	Due on 9 March 2016. Received on 24 February 2016 (see CRPD/C/16/3).
Author's comments (first set):	Received on 22 June 2016 (see CRPD/C/16/3).
Action taken:	Follow-up letter sent by the Special Rapporteur to the State party on 5 December 2016 (see CRPD/C/17/3).
Second reply from the State party:	Received on 24 January 2017 (see CRPD/C/17/3).
Action taken:	State party's follow-up observations transmitted to the author for comments with a deadline for response of 13 April 2017.
Author's comments (second set):	Received on 27 January 2017 (see CRPD/C/17/3).
Decision adopted at the seventeenth session:	"B2" assessment: follow-up ongoing. Follow-up letter sent by the Special Rapporteur on 21 November 2017, with a deadline for response of 23 January 2018.
Third reply from the State party:	Received on 20 January 2018.

The State party made the following comments:

(a) The State party reiterated its position of 24 January 2017 that, as a matter of principle, it did not provide compensation to an applicant in treaty body procedures for costs incurred in the filing of communications. It also noted that the costs incurred by the author in the domestic court proceedings had been the subject of a final decision and that the State party was therefore not in a position to comply with the recommendation on compensation;

(b) Multiple efforts by the city of Linz to improve its public transport system for persons with visual impairments had been undertaken, including: equipping all ticketing machines with "text to speak" functions; equipping the ticketing machines with a system that allowed the user to scan the Quick Response Code (QR Code) and obtain an identical ticket; optimizing the smartphone application "Qando" on public transport schedules; equipping all stations and stops in the public transport system in Linz with tactile guidance systems; equipping all buses and trams with an acoustic system whereby when a bus or a tram approached a stop, a sensor initiated a signal and announced the bus or tram line and its destination; equipping the operation systems of elevators with Braille; ensuring barrier-free connection from the city lines to the regional train lines; providing a state-of-the-art fleet of public transport that ensured free movement onto and inside vehicles for persons with disabilities, including visually impaired persons; and equipping all means of transportation with low-floor technology that facilitated access;

(c) The public transport system in Linz would continue its ongoing efforts aimed at further improving accessibility for persons with disabilities, in close cooperation with the Austrian Federation of the Blind and Partially Sighted.

The Regulation of the Federal Minister competent for public transport regarding the building and operation of tramways, as amended, was currently under revision and would shortly be published. The planned amendment would include a new section 5a relating to accessibility (barrier-free access), as well as up-to-date technical indications, which had been prepared in close cooperation with the Working Group for Rehabilitation of the Federation of the Blind and Partially Sighted. Section 5a would include a reference to the Federal Act on Equality of Persons with Disabilities, which covered persons with visual and other sensory impairments. The Regulation would establish measures to facilitate the use of public transport by all persons, without obstacles and without the need for assistance by third persons. An implementing decree would specify further details of those technical indications and adapt them to new developments. The decree would be based on Commission Regulation (EU) No. 1300/2014 of 18 November 2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility, and would include specifications for elevators, acoustic and tactile assistance signals on traffic lights, portable sensors for persons with visual impairments and other measures.

Action taken

State party's follow-up observations transmitted to the author for comments, with a deadline for response of 23 February 2018. A reminder was sent to the author on 12 February 2019, with a deadline for response of 12 March 2019.

Decision

"B1" assessment: Follow-up ongoing. Awaiting author's comments. The State party will be requested to provide a copy of the amended Regulation of the Federal Minister competent for public transport regarding the building and operation of tramways, once it enters into force.

4. *Given v. Australia* (CRPD/C/19/D/19/2014)

Views adopted: 16 February 2018

First reply from the State party: Due on 13 September 2018. Received on 10 December 2018.

The State party submitted that it had given due consideration to the Views, which it had published on the website of the Attorney-General's Department, in compliance with the Committee's recommendations.

It expressed its commitment to providing persons with disabilities with support to enable their participation and promote their inclusion in the community.

The State party disagreed with the Committee's findings and, in particular, its interpretation of article 29 of the Convention. It noted that the right to vote by secret ballot was subject to certain reasonable restrictions, as interpreted by the Human Rights Committee in its general comment No. 25 (1996) on participation in public affairs and the right to vote. The State party noted that a ballot could still be secret where an elector was assisted by another person of their choice or another independent person, and provided that the voter was protected from coercion or compulsion and from disclosure of the vote to the State authorities.

The State party argued that the use of an electronic voting option would constitute a disproportionate burden. It had established a trial of stand-alone voting machines for blind voters or voters with low vision at the 2007 federal elections, and the result had shown a low level of voter engagement with the voting option and a cost per vote of 2,597 Australian dollars compared to an average cost per elector of 8.36 dollars. The Australian Parliament had periodically considered the appropriateness of electronically assisted voting but had concluded that it had disproportionate costs and flaws with regard to security and

data integrity. However, it would continue to consider electronically assisted voting, including the possibility of amending the Electoral Act to extend such voting to people with disabilities other than visual impairments.

The State party acknowledged the failures in the way in which the author had been treated, in particular the denial of live assistance. The State party noted the Committee's recommendation that a presiding officer providing live assistance to a voter be required by law to maintain the confidentiality of that voter's ballot and indicated that, although legislative change was not possible at the current stage of the electoral cycle, it had developed training materials for all polling staff on supporting electors with disabilities in polling places.

The State party argued that article 9 (1) of the Convention was not applicable in the present case because it referred to access to certain physical locations, facilities and services rather than voting. It added that electronically assisted voting was not a service that it generally made available to the public.

Action taken

19 December 2018: Acknowledgement of the follow-up information to the State party and transmittal to the author for comments, with a deadline for response of 19 February 2019.

Decision

"B2" assessment: Follow-up ongoing; awaiting author's comments. The Committee decides that the focus of the follow-up assessment should be compliance with article 9 of the Convention. In that regard, the State party should indicate what alternative measures to electronic voting would be available to the author to ensure that she can exercise her right to secret ballot.

5. *Bacher v. Austria* (CRPD/C/19/D/26/2014)

Views adopted: 16 February 2018

First reply from the State party: Received on 10 September 2018.

Authors' comments

(first, second, third and fourth sets): Received on 11 October 2018, 23 October 2018, 3 November 2018 and 20 November 2018.

The author noted that the roof had still not been rebuilt, that it would be only 18 metres long, and that the family was in need of financial support to pay for the roof.

Second reply from the State party: Received on 23 January 2019.

The State party stated that barrier-free access to the author's house had been created at ground level, as well as a short-term parking facility, and barrier-free access from the underground car park. The mayor had offered to buy a parking space in the underground car park and rent it out to the author's family for a symbolic amount, but the family decided to purchase that space. Although no subsidy was available for that purchase, the family obtained an extraordinary subsidy of 800 euros from a non-governmental organization. As to the rebuilding of the roof above the path providing access to the author's home, the State party noted that building more than 50 per cent of the existing roof required an agreement with neighbouring houses and that, although local authorities had attempted to mediate, agreement had not ultimately been reached. In light of that fact, the author's family had amended their application for a building permit and limited it to 50 per cent of the existing roof. In November 2018, that permit had been granted so that the roof could now be built. A subsidy had been approved that would cover 25 per cent of the costs of rebuilding the roof. A provisional additional subsidy of 5,693 euros had already been granted.

The State party requested the closure of the follow-up procedure.

Decision

“B2” assessment: Follow-up ongoing. The State party will be requested to provide information as to the measures taken to implement the general recommendations contained in the Views.

6. *Makarov v. Lithuania* (CRPD/C/18/D/30/2015)

Views adopted: 18 August 2017

First reply from the State party: Received on 12 February 2019.

The State party stated that the Ministry of Justice had launched a procedure of compensation for damages to the author. In that context, on 21 December 2017, it had requested the author to specify the pecuniary and non-pecuniary damage and to submit any relevant documents evidencing the damage. On 2 January 2018, the author had responded to the Ministry of Justice without specifying the amount of the damage and informing it that he had appealed before the courts regarding restitution of damages.

The State party noted that, according to the rules regarding familiarization with the materials of cases heard in court, any person was entitled to submit a request to the respective court with a view to gaining access to court and investigation material free of charge. Upon consent from the president of the court, the interested person could make copies of such material or take photos.

The State party indicated that the Views had been translated into Lithuanian and published on the website of the Ministry of Social Security and Labour.

The State party stated that the legislation regulating the right to free legal assistance had been amended and the system of provision of such assistance reorganized. Training activities were held for judicial staff with a view to ensuring adequate legal assistance for persons with disabilities.

A plan on measures to implement the Committee’s recommendations for the period 2016–2020 had been adopted in an order of the Minister of Social Security and Labour, including provision for the adjustment of certain premises to the needs of persons with disabilities in draft projects for the construction of new prisons and the renovation of existing ones, and the organization of training activities for prison officers.

As to monitoring of the provision of reasonable accommodation for persons with disabilities across all public and private sectors, the State party stated that the Department for Persons with Disabilities monitored the implementation of the Law on the Social Integration of Disabled Persons and the Convention. In 2017, the Department had conducted monitoring activities, together with non-governmental organizations, in areas including the assessment of media information about persons with disabilities, a study on adjustment of the physical environment for persons with disabilities in health institutions, a study of the evaluation of public transport adjustment for persons with disabilities, and implementation of opinion polling of persons with disabilities. Additionally, the Equal Opportunities Ombudsperson monitored implementation of the Law on Equal Opportunities in the workplace. In that context, it had conducted visits to municipalities in 2015–2016, which had revealed that local administration employees lacked information on equal opportunities. As a result, the “Municipalities’ success code: gender equality” project was launched in 2016 and a working group established.

Authors’ comments (first and second sets): Received on 18 March 2018.

The author submits that the State party failed to compensate him. On 18 September 2017, the author, through his lawyer, submitted a complaint to Vilnius District Court and asked the State party to compensate him for the harm that he had suffered. The court decided that the complaint contained deficiencies, and gave the lawyer four months to correct them. However, after four months, on 5 February 2018, the court refused to consider the case.

On 22 February 2018, the author’s lawyer again attempted to file a claim for damages. On 28 February 2018, the complaint was amended to include the documented amount of the compensation that was being requested, amounting to 91,324.77 euros. Vilnius District

Court again refused to consider the complaint, claiming that complaints that contained requests for compensation higher than 43,500 euros should be addressed to Vilnius Regional Court. The Supreme Court of Lithuania mandates that a complaint for compensation should be heard by the same court as the one that considered the criminal case. The author therefore appealed the decision by Vilnius District Court. The decision is expected in 2018,¹ given the court's backlog.

It should be noted that on 22 May 2018, the 10-year statute of limitations on compensation would expire, making it impossible for the author to receive any money for the harm suffered by him and his late wife. The author is therefore convinced that the Committee's decision will never be implemented.

The author also submits that he received a letter dated 21 December 2017, proposing an out-of-court settlement of 2,900 euros for material damages and 1,500 euros for moral damages. Those amounts do not correspond to reality, with proven documented damages amounting to 91,324.77 euros.

The author claims that the State party provided an inaccurate response to the Committee's decision regarding access to court materials and investigation documents. The State party claimed that victims or their representatives had the right to access the materials of the investigation and make copies. On the contrary, article 181 (6) (2) of the Criminal Procedure Code prohibits making copies of any documents which contain personal details of the participants of the court hearings. The court violated the confidentiality rule by disseminating personal information about the author's wife. The illegal dissemination of private information is a criminal offence. By divulging information about his wife's disability, the State party violated the Constitution, the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and the Convention on the Rights of Persons with Disabilities. The State party further stated that article 53 of the Criminal Procedure Code makes mandatory the participation of a lawyer for persons with disabilities. This is not true: that article states that a prosecutor or a judge may allow a representative to participate.

The State party also provided misleading information on the publication of the views of the Committee. The author received the Committee's Views in the Lithuanian language only on 8 February 2018. This language version was not available to the courts when the author had attempted to file a complaint. Neither the Ministry of Social Security and Labour nor the Department for Persons with Disabilities has published the Views on their websites. Even if they had, the Views would not have been widely disseminated since very few people visited those websites.

In conclusion, the author claims that despite the Committee's Views, the State party did not take the time to learn the circumstances of the author's case, and to take measures to prevent similar unjust violations in the future.

Decision

"B2" assessment: Follow-up ongoing. A note will be sent to the State party requesting information as to the measures taken to implement the general recommendations contained in the Views, including the legislative amendments, to ensure the regular provision of free legal assistance to persons with disabilities and to monitor the provision of reasonable accommodation for persons with disabilities to ensure their access to justice on an equal basis with others. The State party should also indicate under which alternative procedure the author can be compensated.

¹ There have been no additional submissions from the author.