



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*

I. 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 to Views between the twenty-eighth and thirtieth sessions pursuant to the Committee's rules of procedure, and her recommendations to the Committee. The assessment criteria were as follows:

Assessment criteria

Compliance

A Measures taken are largely satisfactory

Partial compliance

B Substantive measure(s) taken, but additional information and/or action is required

Non-compliance

C Reply received but measures taken do not implement the Views/recommendations

No reply

D No reply to all or parts of recommendations following reminder(s)

* Adopted by the Committee at its thirtieth session (4–22 March 2024).



II. Communications

A. *X v. United Republic of Tanzania* (CRPD/C/18/D/22/2014), *Y v. United Republic of Tanzania* (CRPD/C/20/D/23/2014) and *Z v. United Republic of Tanzania* (CRPD/C/22/D/24/2014)

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| Dates of adoption of Views: | 18 August 2017 (<i>X v. United Republic of Tanzania</i>), 31 August 2018 (<i>Y v. United Republic of Tanzania</i>) and 19 September 2019 (<i>Z v. United Republic of Tanzania</i>) |
| Subject matter: | Torture, inhuman and degrading treatment; discrimination against persons with albinism |
| Articles violated: | Articles 5, 15 and 17, read in conjunction with article 4 (<i>X v. United Republic of Tanzania</i>); articles 5, 7, 8, 15, 16, 17 read alone and in conjunction with article 4, and 24 (<i>Y v. United Republic of Tanzania</i>); and articles 5, 15 (1), 16 and 17, read alone, and articles 6 and 8, read in conjunction with articles 5, 15 (1), 16 and 17 (<i>Z v. United Republic of Tanzania</i>), of the Convention |
| Previous follow-up information: | None |

1. Remedy

3. Concerning the authors, the State party is under an obligation:

(a) To provide them with an effective remedy, including compensation, redress for the abuses suffered, and the support necessary to enable them to live independently again, and additionally in the case of *Z v. United Republic of Tanzania*, proper medical treatment, support devices such as functional prostheses, and rehabilitation;

(b) To conduct impartial, prompt and effective investigations into the attacks suffered by the authors, and to prosecute and punish the perpetrators.

4. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee refers to the recommendations made by the Independent Expert on the enjoyment of human rights by persons with albinism as contained in her report to the Human Rights Council,¹ and requires the State party:

(a) To review and adapt legal frameworks as necessary to ensure that they encompass all aspects of attacks against persons with albinism, including with regard to trafficking in body parts;

(b) To ensure prompt investigation and prosecution of cases of attacks against persons with albinism and trafficking in body parts, and the punishment of those responsible;

(c) To ensure that the practice of using body parts for witchcraft-related practices is adequately and unambiguously criminalized in domestic legislation;

(d) To develop and implement sustained awareness-raising campaigns, based on the human rights model of disability and in compliance with the State party's obligations under article 8 of the Convention, and training for the general public, judicial officials, the police and all workers in the areas of education, health and justice to address harmful practices and rampant myths affecting the enjoyment of human rights by persons with albinism and to cover the scope of the Convention and its Optional Protocol;

(e) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population;

¹ [A/HRC/34/59](#), paras. 97–99.

(f) To pursue rehabilitation measures for survivors of attempted killings and victims of mutilations.

2. State party's response

5. The Committee's Views were transmitted to the State party on 20 September 2017 (*X v. United Republic of Tanzania*), 9 October 2018 (*Y v. United Republic of Tanzania*) and 25 September 2019 (*Z v. United Republic of Tanzania*). On 30 March 2023, the secretariat of the Committee sent a reminder to the State party, inviting it to provide its observations no later than 30 May 2023. On 4 October 2023, by way of final reminder, the secretariat invited the State party to submit its observations no later than 6 November 2023. Despite these reminders, the State party has failed to provide any observations on follow-up to the Views. The Committee sent invitations to the State party, on 15 August 2023 and 7 March 2024, to a meeting on the implementation of the Committee's recommendations, to which the State party did not reply.

3. Decision of the Committee

6. The Committee deeply regrets that the State party has not provided its observations regarding the follow-up to the Views adopted in relation to the three communications, despite reminders sent to it, and that it has not replied to the Committee's invitations to a meeting. In view of the State party's lack of cooperation, the Committee decides to discontinue the follow-up procedure, with "D" assessment.

B. *Al-Adam v. Saudi Arabia* (CRPD/C/20/D/38/2016)

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|---------------------------------|---|
| Date of adoption of Views: | 20 September 2018 |
| Subject matter: | Torture resulting into disability; imposition of a death sentence after an unfair trial |
| Articles violated: | Article 13 (1), read alone and in conjunction with articles 4, 15, 16 and 25, of the Convention |
| Previous follow-up information: | None |

1. Remedy

7. Concerning the author, the State party is under an obligation:

(a) To provide him with an effective remedy, including an impartial, effective and thorough investigation into the claims of torture, prosecution of those responsible and effective reparation to the author and his family, and adequate monetary compensation for the loss of hearing in his right ear following the denial of access to the necessary medical services;

(b) To review his conviction in accordance with the guarantees enshrined in the Convention, including the exclusion of the evidence obtained under torture, permanent suspension of solitary confinement, full access to his representatives, the provision of adapted procedural accommodation to ensure that he can effectively take part in proceedings and access to the necessary health services.

8. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party:

(a) To establish a clear prohibition of any act of torture in the justice and prison system;

(b) To establish mechanisms to effectively and independently report and investigate allegations of torture;

(c) To ensure timely access to medical services in the context of detention, in accordance with article 25 of the Convention;

- (d) To give due consideration to abolishing the death penalty;
- (e) To provide sufficient, regular training on the scope of the Convention and its Optional Protocol to judges, other judicial officers and prison officials.

2. State party's response

9. In its observations dated 29 March 2019, the State party argues that the Committee's observation that the author's disability deteriorated owing to the torture inflicted on him in detention contradicts the communication, according to which he had no previous injury. The State party disputes that the prison administration neglected to provide medical care to the author, arguing that, as confirmed by medical reports, he underwent a medical examination upon being detained. According to the reports, the author's medical impairment did not require surgery and did not hinder him from full participation. The State party contests that a handwritten power of attorney in Arabic, signed by his family, was attached to the initial submission; according to the State party, the author had provided only an unsigned authorization in English. The State party disputes that the Ministry of the Interior, the court hearing the author's case and the Human Rights Commission failed to act on his family's complaints, as the family did not prove the existence of such complaints with official records. Moreover, the courts dismissed his claim that his confession was obtained under torture.

10. The State party argues that despite the Committee's findings to the contrary, it submitted its observations on the merits, on 16 February 2018. In its observations, the State party argues that the communication falls outside the scope of the Optional Protocol, as the author's hearing impairment is not a long-term disability to which the Convention would apply under article 1. The State party denies that the author was prevented from establishing contact with a lawyer, who met him several times during his trial. The courts provided him with fair trial guarantees, and court documents do not support the claim that his confession was obtained under torture and used against him in the trial. The State party concludes that the Committee's Views are based on inaccurate information and unreliable sources.

11. In response to the Committee's finding of breaches of the Convention, the State party notes its commitment to fulfilling its obligations under the Convention and refers to its report submitted under article 35 of the Convention. The State party argues that it was not allowed to comment on the author's additional comments, in accordance with rule 70 (11) of the rules of procedure, and that the Committee failed to inform it of the author's claims, in accordance with rule 73 (1).

3. Author's comments

12. In their submission dated 1 November 2023, the author's representatives indicate that on 23 April 2019, the State party's authorities executed the author together with 36 others in a mass execution announced by the Ministry of the Interior. They note that the Supreme Court confirmed the author's death sentence even though he had confessed under torture, and that it did not investigate any information about his exposure to torture that led to loss of hearing. The author's family was not informed of the date of execution, and was not allowed to say goodbye to him. There was no burial and, to this day, the author's family still does not know the location of his remains. The author's representatives argue that the State party has not responded to the Committee's recommendations.

4. Decision of the Committee

13. The Committee regrets the lack of implementation of the individual and general recommendations. In particular, the Committee deeply regrets the execution of the author despite its request for a review of his conviction. In view thereof, the Committee decides to discontinue the follow-up procedure, with "C" assessment.

C. *S.K. v. Finland* (CRPD/C/26/D/46/2018)

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|---------------------------------|--|
| Date of adoption of Views: | 24 March 2022 |
| Subject matter: | Personal assistance |
| Articles violated: | Article 19 (b), and article 5 (1) and (2) read alone and in conjunction with article 19, of the Convention |
| Previous follow-up information: | None |

1. Remedy

14. Concerning the author, the State party is under an obligation:

(a) To provide him with an effective remedy, including by reconsidering his application for personal assistance to ensure that he can exercise his right to live independently, in the light of the Committee's Views;

(b) To provide adequate compensation to the author for the costs incurred in filing the communication;

(c) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

15. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party to ensure that its legislation on personal assistance and the manner in which it is applied by administrative institutions and domestic courts is consistent with the State party's obligations to ensure that legislation does not have the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of any right by persons with intellectual disabilities on an equal basis with persons with other types of disabilities when seeking access to personal assistance.

16. In particular, the Committee recommends that the State party amend the Disability Services Act to ensure that the resources criterion, under which the beneficiary is required to have the ability to determine the content of the required assistance and the modalities for providing it, is not an obstacle to independent living for persons who require support in decision-making.

2. State party's response

17. In its observations dated 7 October 2022, the State party indicates that on 8 April 2022, the Ministry of Foreign Affairs issued a press release concerning the Committee's Views. The Ministry of Foreign Affairs has translated the Views into Finnish and Swedish, and disseminated the Views in Finnish on 13 May 2022 and in Swedish on 19 May 2022 to government offices and civil society organizations. Specialists at the Ministry of Foreign Affairs and the Ministry of Social Affairs and Health discussed the Views. The Ministry of Social Affairs and Health evaluated how to consider the Views in drafting the new act on disability services and assistance, and discussed the Views with the National Supervisory Authority for Welfare and Health.

18. The State party observes that on 8 June 2022, the Ministry of Social Affairs and Health instructed the author's municipality regarding the obligation to provide him with an effective remedy and his right to reapply for disability services, which, in the Ministry's view, would ensure an adequate remedy. The Ministry noted the Committee's concern about the rejection of the number of hours of personal assistance requested by the author. The State party observes that neither the Convention nor the Optional Protocol prescribes an obligation to provide monetary compensation.

19. The State party notes that on 22 September 2022, the Government proposed to parliament a new bill on disability services and assistance, which, according to the State party, would implement the Committee's recommendation on the reform of the Disability

Services Act. In drafting the bill, the State party's obligations under the Convention and the Committee's Views were duly considered. The State party observes that the proposed act promotes societal equality, inclusion and participation and removes obstacles; supports independent living and the realization of self-determination; and ensures access to good-quality services that meet the individual requirements of persons with disabilities. Under the proposed act, the provision of "special services" is based on a need for assistance or support due to functional restrictions caused by long-lasting disability or illness. Access to services would be provided under one common act regardless of the type of disability or diagnosis. "Service needs" would be identified together with the person concerned and, where necessary, their family, considering the person's individual requirements and wishes. An individual care plan would be prepared as a basis for granting the services. Personal assistance could be provided if the person can live independently or, with support, formulate and express their will concerning the content of the assistance using a method of communication suited to the person. Alternatives to personal assistance would include "special support" for participation, involving guidance provided by appropriately competent professionals. The proposed act includes provisions on supported decision-making to enable persons with disabilities to make decisions about their life.

3. Author's comments

20. In his comments dated 7 May 2023, the author notes that on 22 April 2022, his municipality requested him to reapply for personal assistance. On 27 May 2022, the author's legal guardian replied that, given the Committee's Views, the municipality should reconsider his previous applications rather than ask him to reapply. On 8 June 2022, the municipality answered that the Ministry of Social Affairs and Health had advised it that the author could reapply and that it could not reconsider his previous applications. On 13 June 2022, the legal guardian reiterated her position. The author argues that a new application is not needed, as the Committee requested the State party to proactively provide him with legal safeguards. Additionally, domestic legislation is clear that the municipality should be aware of the "service needs" of a person with a severe disability. Service plans must be updated continuously, but the author's latest plan dates from 2014. As the author's municipality was informed of the Committee's Views, it should have promptly reconsidered his application and within three months, according to the Disability Services Act.

21. The author notes that on 11 December 2022, he filed a complaint with the Non-Discrimination Ombudsman. On 20 March 2023, following the transfer of responsibilities for social services to the relevant county, the county social services met with the author to update his service plan. The author reiterated his wish for the services that he had requested earlier, and that his current situation prevented him from living in his apartment. The author states that "it was clear" that no new application would be required and that he is now waiting for an updated service plan and a decision. Meanwhile, the authorities have not provided him with an effective remedy or with compensation for the costs incurred for filing the communication.

22. The author argues that the State party's dissemination of the Committee's Views has been ineffective, given his own situation, and that there are no reports on how the domestic authorities have given effect to the Committee's Views. He argues that domestic authorities should receive more training on the recommendations.

23. The author argues that the new Act on Disability Services and Assistance, which entered into force on 1 October 2023, did not abolish provisions preventing persons with intellectual disabilities from living independently with the help of personal assistance. According to section 9, a prerequisite for eligibility for personal assistance is being able, whether independently or with support, to form and express one's preferences as to the content of assistance. According to the author, the State party highlights provisions that already existed in the previous version of the Act. The resources criterion continues to constitute a "very high threshold", particularly as concerns the receipt of support for independent living and daily activities. The State party has therefore not incorporated the Committee's recommendations in its legislation. According to the author, new services provided for in the new Act, including "special support" for participation and supported

decision-making, do not provide redress for requirements for personal assistance for daily activities and independent living.

4. Decision of the Committee

24. The Committee decides to maintain the follow-up dialogue open and to request further information from the State party.

D. *Henley v. Australia* (CRPD/C/27/D/56/2018)

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|---------------------------------|--|
| Date of adoption of Views: | 26 August 2022 |
| Subject matter: | Failure to provide audio description on free-to-air television, preventing accessibility for persons with visual impairments |
| Articles violated: | Articles 9 (1) (b) and 30 (1) (b), read in conjunction with article 4 (1) and (2), of the Convention |
| Previous follow-up information: | None |

1. Remedy

25. Concerning the author, the State party is under an obligation to afford her adequate compensation, including for any legal costs incurred in filing the communication.

26. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party:

(a) To adopt action plans and strategies to identify existing barriers to accessibility, including the provision of audio-description services to persons with visual impairments, set time frames with specific deadlines and provide both the human and the material resources necessary to remove the barriers. Such action plans and strategies should be strictly implemented. The State party should also strengthen its monitoring mechanisms in order to ensure accessibility and it should continue providing sufficient funds to remove barriers to accessibility and train monitoring staff;²

(b) To take the necessary legislative and policy measures with a view to ensuring the provision of audio-description services to persons with visual impairments;

(c) To educate persons with disabilities about their rights under the Convention and, in particular, about accessibility as a crucial means to enable them to live independently and participate fully in all aspects of life;

(d) To ensure that appropriate and regular training and awareness-raising activities on the scope of the Convention and the Optional Protocol thereto, including on accessibility for persons with disabilities, is provided to all service providers of free-to-air television and other relevant stakeholders, to ensure that they are fully accessible, in compliance with the Convention. Awareness-raising should be carried out in cooperation with persons with disabilities, their representative organizations and technical experts.³

2. State party's response

27. In its observations dated 22 March 2023, the State party acknowledges its obligations under the Convention. It indicates that the Views will be published online, along with its observations. The State party recognizes the importance of access to appropriate communications technologies for the full and equal enjoyment of human rights by persons with disabilities. The State party is committed to improving access to communications for persons with disabilities and to consulting with them to understand and address their

² General comment No. 2 (2014), para. 33.

³ Ibid.

requirements. The State party recalls that in 2017, it met with the author and other representatives of the community of persons who are blind or have visual impairments in the Audio Description Working Group, which benefited the implementation of audio description by national broadcasters. The State party is committed to improving the independence of persons with disabilities, including through its Disability Strategy 2021–2031, and an associated plan to be developed by the Minister for Communications.

28. The State party recalls that its national broadcasters commenced broadcasting content with audio description on 28 June 2020, with an initial government grant of 2 million Australian dollars to each broadcaster. On 7 February 2022, the Government announced an additional 1 million Australian dollars annually to each national broadcaster to support the continuation of audio description over the period from 2022 to 2025. The amount of content with audio description on free-to-air television continues to increase, and broadcasters are working on extending programming with audio description to their catch-up television services. The Minister for Communications is in contact with the industry body representing commercial free-to-air television broadcasters and the three commercial free-to-air networks on the provision of audio description. The Minister intends to work with the industry to improve the provision of audio description.

29. The State party reiterates its objections under article 2 (d) of the Optional Protocol, as the author could have complained to the Australian Human Rights Commission under the Disability Discrimination Act 1992. If the complaint had been terminated by the Commission, the author could have applied to a court alleging unlawful discrimination. The court could then have directed the respondent to cease any unlawful discrimination, required the respondent to redress loss or damage suffered, and/or required the payment of damages, among other action. The State party maintains that the author has still not exhausted remedies even though complaints to the Australian Human Rights Commission can only be brought against each individual national broadcaster. The State party disputes that it must demonstrate that domestic remedies have a reasonable prospect of success beyond the availability of a remedy capable of bringing effective relief.

30. The State party argues that States parties must take steps towards the full realization of Convention rights. However, States parties are not obliged to take all measures, and they maintain a margin of discretion. The State party determined that consulting stakeholders and delivering programming was the most appropriate means to progressively implement the relevant Convention rights, as audio description is most readily provided by national broadcasters. Three years of funding provide them with the resources to provide high levels of audio description on free-to-air television. The State party notes its commitment to a five-year funding plan to advance the provision of audio description. The State party affirms that it has acted consistently with its obligation to progressively realize the author's rights under articles 9 (1) (b) and 30 (1) (b) of the Convention, given the above-mentioned developments on the provision of audio description.

3. Author's comments

31. In her comments dated 29 May 2023, the author reiterates her arguments on admissibility and notes that the Committee declared the communication admissible. The author argues that the State party has not taken any measures to implement any of the Committee's individual or general recommendations. The author submits that the State party cannot rely on the fact that it has taken some measures in order to meet its obligations under articles 9 (1) (b) and 30 (1) (b), read in conjunction with article 4 (1) and (2), of the Convention. She argues that it is for the Committee to determine whether the State party has taken all appropriate measures.

32. The author argues that the Disability Strategy 2021–2031 does not specifically mention the provision of audio description. She notes that the State party has not explained how it intends, through the associated plan, to specify the steps necessary to provide audio description in a sustainable manner, including time frames with specific deadlines and sufficient funding, in order to remove barriers to the provision of audio description. The author argues that the associated plan is therefore unlikely to contain the specific detail recommended by the Committee. In addition, according to the author, the Disability Strategy 2021–2031 and any associated plan constitute a plan to improve the lives of persons with

disabilities, but it is not a precise, specific or detailed policy framework or legally binding framework, by which the State party can be held to account.

33. The author argues that the State party has not taken any of the following measures: introducing, through legislation, mandated minimum targets for audio description on free-to-air television and free online catch-up television; publicly setting minimum standards with time frames for broadcasters to provide audio description; identifying barriers to the provision of audio description; providing sustainable budget-line allocations to assist with the production and broadcasting of television with audio description; providing information on any responses received from commercial broadcasters on its plans for the provision of audio description in the foreseeable future; providing any information about the framework and timetable proposed by the Minister for Communications to work with commercial broadcasters; developing a framework to monitor the development and provision of audio description; or developing a framework to monitor its progress towards the realization of the rights contained in articles 9 and 30 of the Convention. The author argues that the State party's obligations are not limited to national broadcasters. The provision of audio description by national broadcasters only, with no steps taken towards full realization of audio-description services by all free-to-air broadcasters, including commercial free-to-air broadcasters, and catch-up television, does not provide persons who are blind or have visual impairments with access to information and the opportunity to take part in cultural life on an equal basis with others.

4. Decision of the Committee

34. The Committee regrets the lack of implementation of the individual recommendation. The Committee considers that the general recommendations have been implemented only partially. In that regard, the Committee notes the policy measures taken to ensure the provision of audio description. However, the Committee notes the absence of information on measures taken to implement its recommendations to adopt action plans and strategies to identify existing barriers to accessibility, to educate persons with disabilities about their rights under the Convention and to ensure the provision of training and awareness-raising activities. In view thereof, the Committee decides to discontinue the follow-up procedure, with "C" assessment for the individual recommendation and "B" assessment for the general recommendations.

E. *Rékasi v. Hungary* (CRPD/C/25/D/44/2017)

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|---------------------------------|---|
| Date of adoption of Views: | 6 September 2021 |
| Subject matter: | Exercise of legal capacity in financial matters |
| Article violated: | Article 12 (3), (4) and (5) of the Convention |
| Previous follow-up information: | None |

1. Remedy

35. Concerning the author, the State party is under an obligation:

(a) To provide her with an effective remedy, including support in the repurchase of the life insurance contract if requested, and indemnify her against financial loss to ensure full restoration of her funds, including the legal costs incurred in filing the communication, and compensation for the violation of her rights under the Convention;

(b) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

36. In general, the State party is under an obligation to take measures to prevent similar violations in the future, including by:

(a) Taking immediate steps to derogate guardianship, including by repealing relevant provisions in the Civil Code, in order to move from substituted decision-making to

supported decision-making that respects the person's autonomy, will and preferences, in full conformity with article 12 of the Convention, including with respect to the right of individuals, in their own capacity, to have control over their financial matters;

(b) Ensuring that appropriate and regular training is provided, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on mechanisms of supported decision-making.⁴

2. State party's response

37. In its observations dated 28 March 2022, the State party argues that the author can still bring proceedings before the courts against the guardian authority and that her counsel should be aware of relevant remedies. The State party notes that its Ministry of Human Capacities is examining the possibility of providing compensation in accordance with the Committee's Views.

38. The State party observes that it has published an anonymized version of the Views online.

39. The State party notes that the Book Two of Act V of 2013 on the Civil Code regulates the capacity to act and supported decision-making. According to the State party, the adoption of the new Civil Code was based on extensive technical and social consultations. For the protection of persons concerned, rules on restriction of the capacity to act have been maintained, and strict conditions regulate the application of such restriction. Unlike the previous Civil Code, the new one provides only for restricting the capacity to act in a category of cases determined by the court. Courts determine the number and structure of the sets of cases to be restricted, based on the person's individual circumstances, which guarantees that the legal consequences of partial guardianship are individualized and flexible. The Civil Code prescribes that a restrictive measure can be applied only if a less restrictive measure provides insufficient protection. In this regard, alternative measures include "the introduction of a prior legal statement" and the possibility of supported decision-making. The Civil Code now requires, in addition to diminished discretionary capacity, that the person's individual circumstances and their family and social relations be considered. Loss of discretionary capacity is therefore insufficient as a basis for restricting the capacity to act. Guardianship must be limited temporally, and courts must set a date for mandatory review. The person concerned has full procedural capacity in guardianship and review proceedings, and can initiate such proceedings.

40. The State party observes that in 2019, a group was established to comprehensively analyse judicial practice in guardianship proceedings. The group commenced its work in 2020. Guardianship authorities take measures on supported decision-making and appoint advocates, which they may do only at request of the person concerned, even if the relevant court does not consider the restriction of capacity to act to be justified.

41. The State party notes that Act CLXI of 2011 on the Organization and Administration of Courts and Act CLXII of 2011 on the Legal Status and Remuneration of Judges provide for rules on the training of judges. Judges are required to attend regular training courses. These courses cover the human rights of persons with disabilities, including in judicial proceedings. The State party notes that the Hungarian Academy of Justice organized a "training of trainers" programme in this regard. Judges have had the opportunity to participate in international training courses on the Convention and on persons with disabilities. In addition, the National Office for the Judiciary is open to cooperating with various organizations to ensure the realization of the rights of persons with disabilities.

42. The State party notes that the person concerned and their relatives must be informed of the possibility of supported decision-making during the guardianship procedure before the person is placed under guardianship. The "National Association of Social Organizations and Foundations for the Mentally Disabled", with the support of the Ministry of Human

⁴ CRPD/C/HUN/CO/1, para. 26.

Capacities, has been conducting training for administrators of guardianship authorities and staff in care institutions with topics and curricula relevant to their tasks regarding supported decision-making and on “the appropriate treatment of persons with disabilities”. In December 2019, the Ministry of Human Capacities concluded a contract with the National Association of Persons with Intellectual Disabilities and Their Helpers to train 500 to 550 guardians on supported decision-making.

3. Author’s comments

43. On 3 March 2023, the State party’s observations were transmitted to the author for comments. On 4 October 2023, the secretariat of the Committee sent a reminder to the author, requesting her to provide comments by no later than 6 November 2023 and indicating that the Committee might consider the State party’s implementation of the Views in the absence of her comments after that date. The author has not provided comments.

4. Decision of the Committee

44. The Committee regrets the lack of implementation of the individual and general recommendations, referring also to its follow-up to other communications concerning the State party in previous follow-up reports and to its concluding observations on the combined second and third periodic reports of the State party.⁵ In view thereof, the Committee decides to discontinue the follow-up procedure, with “C” assessment.

F. *Z.H. v. Sweden* (CRPD/C/25/D/58/2019)

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|---------------------------------|--|
| Date of adoption of Views: | 6 September 2021 |
| Subject matter: | Deportation to Afghanistan; lack of access to adequate medical treatment |
| Article violated: | Article 15 of the Convention |
| Previous follow-up information: | None |

1. Remedy

45. Concerning the author, the State party is under an obligation:

- (a) To provide him with an effective remedy, including compensation for any legal costs incurred in filing the communication;
- (b) To review the author’s case, taking into account the State party’s obligations under the Convention and the Committee’s Views;
- (c) To publish the Committee’s Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

46. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party to ensure that the rights of persons with disabilities, on an equal basis with others, are properly considered in the context of asylum decisions.

2. State party’s response

47. In its observations dated 29 March 2022, the State party notes that it takes the Committee’s Views and the recommendations therein seriously. The State party argues that it is under no obligation under the Convention or the Optional Protocol to provide the author with any financial compensation or reimbursement of legal costs. The State party has therefore not initiated any process in that regard.

⁵ See [CRPD/C/16/3](#), [CRPD/C/17/3](#), [CRPD/C/19/4](#), [CRPD/C/21/3](#), [CRPD/C/22/4](#), and [CRPD/C/HUN/CO/2-3](#), paras. 24 and 25.

48. The State party notes that on 9 December 2021, the Migration Agency granted the author a residence permit, valid until 9 December 2024.

49. The State party observes that it has disseminated the Committee's Views to relevant public authorities and has published them online alongside a summary.

50. As for the Committee's general recommendation, the State party notes that the Migration Agency has long worked on human rights issues to secure the rights of persons with disabilities. Like all other public authorities, the Migration Agency is responsible for implementing the national disability policy in its activities and is guided by the Convention. The State party has therefore not found it necessary to take any further measures. The State party considers that it has taken the steps necessary to comply with the Committee's Views and requests that it conclude the follow-up procedure.

3. Author's comments

51. In his comments of 10 May 2023, the author disagrees with the State party's argument that it is under no obligation to provide financial compensation or reimbursement of legal costs. The author notes that he has not yet filed any claim with the State party in that regard.

52. The author is troubled by the State party's failure to implement the Committee's general recommendation. The author argues that his troubling and scarring experience and treatment by the authorities is not uncommon in the asylum context in the State party. Without meaningful, concrete and enforceable changes, such practices and violations of the Convention will continue. The author disagrees that the State party has taken the steps necessary to comply with the Committee's Views, as persons with disabilities continue to face obstacles to securing the realization of their Convention rights. The author requests that the Committee keep the follow-up procedure open, give a further opportunity to the State party to indicate what action it intends to take to comply with the general recommendation, and provide him with an opportunity to comment on the State party's further observations.

4. Decision of the Committee

53. The Committee considers that the measures taken by the State party to implement the individual recommendations are largely satisfactory, but regrets the lack of implementation of the general recommendation. In view thereof, the Committee decides to discontinue the follow-up procedure, with "A" assessment for the individual recommendations and "C" assessment for the general recommendations.

G. *N.L. v. Sweden* (CRPD/C/23/D/60/2019)

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|---------------------------------|------------------------------|
| Date of adoption of Views: | 28 August 2020 |
| Subject matter: | Deportation to Iraq |
| Article violated: | Article 15 of the Convention |
| Previous follow-up information: | None |

1. Remedy

54. Concerning the author, the State party is under an obligation:

(a) To provide her with an effective remedy, including compensation for any legal costs incurred in filing the communication;

(b) To review the author's case, taking into account the State party's obligations under the Convention and the Committee's Views;

(c) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

55. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party to ensure that the rights of persons with disabilities, on an equal basis with others, are properly considered in the context of asylum decisions.

2. State party's response

56. In its observations dated 31 March 2021, the State party notes that it takes the Committee's Views and the recommendations therein seriously. The State party refers to a national goal for its disability policy, set in 2017 by Parliament. The State party's authorities aim to implement the policy in the areas of universal design, accessibility, individual support and the prevention and countering of discrimination. The State party refers to the combined second and third periodic reports that it submitted under article 35 of the Convention.⁶ The State party notes that on 18 March 2021, its Government submitted a bill to Parliament proposing to establish an institute for human rights, which would monitor, investigate and report on the realization of human rights in the State party.

57. The State party argues that it is under no obligation under the Convention or the Optional Protocol to provide the author with any financial compensation or reimbursement of legal costs. The State party has therefore not initiated any process in that regard.

58. The State party notes that, in accordance with the Committee's recommendation, the Migration Agency is reviewing the author's asylum case.

59. The State party observes that it has disseminated the Committee's Views to relevant public authorities and has published them online alongside a summary.

60. As for the Committee's general recommendation, the State party notes that the Migration Agency has long worked on human rights issues to secure the rights of persons with disabilities. Like all other public authorities, the Migration Agency is responsible for implementing the national disability policy in its activities and is guided by the Convention. The State party has therefore not found it necessary to take any further measures. The State party considers that it has taken the steps necessary to comply with the Committee's Views and requests that it conclude the follow-up procedure.

3. Author's comments

61. In her comments dated 27 December 2023, the author notes that she is primarily concerned by the State party's response to the Committee's general recommendation, which, according to the author, show a lack of intention to undertake any action. The author argues that the State party's breaches of article 15 of the Convention in her case and in *Z.H. v. Sweden*⁷ demonstrate the need for the State party to take additional measures to prevent similar violations in the future. The State party's reference to measures previously taken is insufficient, given that the Committee's request is for measures to prevent similar violations in the future.

62. The author welcomes the establishment of the Institute for Human Rights, but argues that it does not ensure that the rights of persons with disabilities are properly considered in the context of decisions on asylum. The author argues that her troubling and scarring experience and treatment by the authorities is not uncommon in the asylum context in the State party. Without meaningful, concrete and enforceable changes, such practices and violations of the Convention will continue. The author disagrees that the State party has taken the steps necessary to comply with the Committee's Views, as persons with disabilities continue to face obstacles to securing the realization of their Convention rights. The author requests that the Committee keep the follow-up procedure open, give a further opportunity to the State party to indicate what action it intends to take to comply with the general recommendation, and provide her with an opportunity to comment on the State party's further observations.

⁶ CRPD/C/SWE/2-3.

⁷ CRPD/C/25/D/58/2019.

4. Decision of the Committee

63. The Committee decides to maintain the follow-up dialogue open in relation to the implementation of the individual recommendation and to request further information from the State party in that regard.

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

Date of adoption of Views: 18 August 2017

Subject matter: Right to enjoy legal capacity on an equal basis with others

Articles violated: Articles 12 (3) and 13 (1) of the Convention

Previous follow-up information: [CRPD/C/21/3](#) and [CRPD/C/23/3](#)

1. Remedy

64. Concerning the author, the State party is under an obligation:

(a) To provide him with an effective remedy, including reimbursement of any legal costs incurred by him and his wife throughout the legal proceedings at the national level, together with compensation;

(b) To provide him with access to court and investigation records, including, but not limited to, the transcripts of all court hearings and the results of expert examinations, and to all relevant documentation;

(c) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

65. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee also refers to the recommendations contained in its concluding observations on the initial report of the State party,⁸ and requires the State party:

(a) To adopt the necessary amendments to the laws regulating the provision of legal assistance to include free legal assistance to persons with disabilities whenever necessary;

(b) To adopt a national plan of action to build the capacity of judicial and law enforcement personnel, including judges, prosecutors, police officers and prison staff, to enhance their knowledge of the rights of persons with disabilities and to ensure the provision of procedural and age-appropriate accommodation in all legal procedures;

(c) To promoting, ensure and monitor the provision of reasonable accommodation for persons with disabilities across all public and private sectors and recognizing the denial of reasonable accommodation as a form of discrimination on the basis of disability.

2. State party's response

66. In its additional observations of 19 June 2023, the State party recalls that in 2017, the Ministry of Justice had requested the author to submit all relevant information to determine the amount of damages incurred, but that the author did not submit a request for compensation. Instead, the author opted to initiate civil proceedings for damages regarding procedural violations during the criminal proceedings concerning the car accident involving his wife, Glafira Makarova. According to the State party, the author's course of action restricted the possibility of effectively bringing a civil claim in criminal proceedings and claiming 300,000 euros in compensation for non-pecuniary damages incurred. On 13 February 2019, Vilnius District Court rejected the author's civil claim. On 17 December 2019, Vilnius Regional

⁸ [CRPD/C/LTU/CO/1](#), paras. 14 and 28.

Court upheld that decision. On 2 December 2021, the Supreme Court rejected his cassation appeal. In response to the author's claim that the State party had failed to implement the Committee's recommendation on compensation, the Supreme Court found that such compensation was outside of the scope of the case, which concerned compensation for damages incurred owing to the crimes of the person responsible for the accident.

67. The State party notes that on 23 April 2018, the Supreme Court rejected the author's request to reopen the criminal proceedings on the basis of the Committee's Views, as the legal system in the State party did not foresee such a possibility. The State party argues that this decision did not preclude the provision of a remedy in the context of the civil claim within the criminal case. On 2 December 2021, the Supreme Court found that the courts had remedied the established procedural shortcomings by thoroughly examining the relevant evidence with the active participation of the author and his representative.

68. The State party notes that the Supreme Court refused the author's subsequent request to reopen the proceedings, as he had failed to submit the request to the court of first instance. The author's request for legal aid in that regard was rejected, as were his complaints against that decision, which had not been submitted in accordance with applicable requirements. The State party argues that requests to reopen proceedings are rarely granted. The refusal of any such request therefore does not impair the essence of the right of access to justice. The State party considers that it has fully implemented the Committee's recommendation in that regard.

69. The State party notes that the author benefited from fully funded legal aid in the examination of the civil claim in the criminal case. The author and his representative had access to the case materials and actively participated in the proceedings. The courts rejected the author's claim for compensation of pecuniary damages in the absence of a direct link with lost income and funeral and treatment expenses, as they established that the deterioration of Ms. Makarova's health and her disability and eventual death were not directly causally related to the injuries that she sustained owing to the accident. The courts ordered the perpetrator to pay 500 euros for non-pecuniary damages with procedural interest of 5 per cent. The courts dismissed the author's claim against the perpetrator's employer, and obliged him to pay legal costs.

70. The State party notes that in May 2022, its authorities again informed the author about his right to compensation from the Ministry of Justice and explained the applicable procedure, including through an individual consultation at the Ministry. The authorities have repeatedly informed the author of his right to request compensation and of the relevant procedure following the adoption of amendments to the legislation on compensation for damages, which increased the maximum limits of compensation for pecuniary and non-pecuniary damages and instituted a time limit of three years for lodging a request for compensation.

71. The State party indicates that its authorities have translated the Committee's Views into the official language of the State party and have published them online.

3. Author's further comments

72. In his submissions dated 26 September 2022 and 27 March 2023, the author argues that the State party's authorities have not implemented the Committee's Views and have refused his requests for compensation. The author notes that on 22 February 2022, the Supreme Court informed him that he could initiate the reopening of the criminal case before Vilnius District Court. However, he was unable to do so without funds to pay for State duty and counsel. On 31 May 2022, the State-Guaranteed Legal Aid Service refused his request for free legal aid, as he had not provided documents regarding his financial status. On 5 and 25 July 2022, Vilnius District Administrative Court rejected his appeals against that decision for failure to fulfil procedural requirements. On 14 September 2022, the Supreme Administrative Court upheld the decisions of Vilnius District Administrative Court. The author argues that these decisions violated Ms. Makarova's right to equal recognition before the law and her right of access to justice. He requests that the Committee ensure the prompt implementation of its Views.

73. In his comments dated 6 December 2023, the author states that on 5 July 2023, he requested 111,554 euros from the Ministry of Justice in compensation for pecuniary and non-pecuniary damages. On 2 August 2023, the Ministry proposed to pay the author 5,000 euros for non-pecuniary damages. On 2 October 2023, the author signed a settlement

agreement with the authorities of the State party in which the latter acknowledged the occurrence of a violation of the Convention. On 6 October 2023, the Ministry of Justice paid 5,000 euros in compensation to the author.

74. The author argues that the authorities of the State party breached his right of access to justice despite that agreement, as Vilnius District Court accepted the request of the Ministry of Justice to reject his claim for compensation because the Convention had not yet entered into force for the State party at the time of the criminal proceedings, despite the State party's obligation under article 18 of the Vienna Convention on the Law of Treaties to refrain from acts that would defeat the object and purpose of a treaty from the moment of signing it.

75. The author complains that on 17 December 2019, Vilnius Regional Court considered his appeal against the decision of Vilnius District Court of 13 February 2019 in his absence, despite his request that it consider the appeal in his presence. Likewise, the Supreme Court rejected his cassation appeal in his and his counsel's absence. The courts ignored his arguments and wrongly assessed the evidence submitted in his civil claim for pecuniary and non-pecuniary damages. The author argues that he was thus deprived of full compensation.

4. Decision of the Committee

76. The Committee considers that the measures taken by the State party to implement the individual recommendations are largely satisfactory. However, noting previous submissions by the parties, the Committee considers that its general recommendations have been implemented only partially. In that regard, the Committee notes measures taken to build the capacity of prison personnel and other civil servants and employees on the rights of persons with disabilities. The Committee also notes measures taken in 2017 to monitor implementation of the Convention. However, the Committee notes the absence of information to show that the State party has adopted a national plan of action to build the capacity of judicial and law enforcement personnel or that it has promoted, ensured and monitored the provision of reasonable accommodation across all public and private sectors. The Committee notes that amendments to the legislation on State-guaranteed legal aid, previously cited by the State party, regulate the rights of legal guardians of "incapacitated persons" rather than providing free legal assistance to persons with disabilities. In view thereof, the Committee decides to discontinue the follow-up procedure, with "A" assessment for the individual recommendations and "B" assessment for the general recommendations.

I. *Sahlin v. Sweden* (CRPD/C/23/D/45/2018)

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|---------------------------------|---|
| Date of adoption of Views: | 21 August 2020 |
| Subject matter: | Recruitment process and appropriate modification and adjustments in the workplace |
| Articles violated: | Articles 5 and 27 of the Convention |
| Previous follow-up information: | CRPD/C/28/3 |

1. Remedy

77. Concerning the author, the State party is under an obligation:

(a) To provide him with an effective remedy, including reimbursement of any legal costs incurred by him, together with compensation;

(b) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

78. In general, the State party is under an obligation to take measures to prevent similar violations in the future, including by:

(a) Taking concrete measures to ensure that the employment of persons with disabilities is promoted in practice, including by ensuring that the criteria applied to assess the reasonableness and proportionality of the accommodation measures are assessed in alignment with the principles enshrined in the Convention and the recommendations

contained in the Committee's Views, and that a dialogue with the persons with disabilities is systematically carried out to enable the realization of their rights on an equal basis with others;

(b) Ensuring that appropriate and regular training is provided to State agents involved in recruitment processes and to legal servants, especially those of the Labour Court, on the Convention and the Optional Protocol, including on the promotion of employment of persons with disabilities in compliance with the Convention, in particular articles 9 and 27.

2. State party's response

79. In its observations dated 4 December 2023, the State party notes that in 2021, a strategy was adopted for the systematic monitoring of the disability policy for the period 2021–2031, which tasked the relevant authorities, including the Public Employment Service, with reporting on progress with regard to the four target areas of implementation of the disability policy. The State party observes that the data produced through that enhanced follow-up procedure will inform a new national action plan for disability policy in 2026.

80. The State party argues that the Public Employment Service provides a variety of specific measures for persons with disabilities, including wage subsidies and grants for adjustments to the workplace. The State party observes that in March 2022, the inquiry set up to strengthen interpreting services in the interests of equality and participation submitted its final report, which the Government is currently analysing.

81. The State party notes that the budget bill for 2024 demonstrates the Government's intention to take measures to improve interpreting services for persons who are deaf, have hearing impairments or are deafblind, and that the bill foresees that the Swedish regions will receive 41 million krona to coordinate the interpreting services.

82. The State party notes that in June 2021, the author applied for ex gratia compensation, which, in a decision taken by the Government on 25 August 2022, was not awarded. The State party has therefore not found it necessary to take any further measures. The State party considers that it has taken the steps necessary to comply with the Committee's Views and requests that it conclude the follow-up procedure.

3. Decision of the Committee

83. The Committee regrets the lack of implementation of the individual recommendations, given that the State party's authorities did not reimburse the author's legal costs and rejected his request for compensation. The Committee considers that the State party has implemented the general recommendations only partially. In that regard, the Committee notes that in 2020, the Equality Ombudsman submitted a report on its supervisory competence in terms of preventive measures against discrimination in the workplace. The Committee also notes that the Public Employment Service provides several specific measures to persons with disabilities, including wage subsidies and grants for adjustments to the workplace. The Committee further notes the information provided on training conducted during the period 2015–2017. However, the Committee notes that the State party has not informed it of measures taken to ensure that the criteria applied to assess the reasonableness and proportionality of accommodation measures are assessed in alignment with the principles enshrined in the Convention and the recommendations contained in the Committee's Views. The Committee also notes that the State party has not provided information on measures taken to ensure that appropriate and regular training is provided to State agents involved in recruitment processes and to legal servants on the Convention and the Optional Protocol. The Committee also recalls its concern about the lack of systematic and institutionalized engagement with organizations of persons with disabilities.⁹ In view thereof, the Committee decides to discontinue the follow-up procedure, with "C" assessment for the individual recommendations and "B" assessment for the general recommendations.

⁹ CRPD/C/SWE/CO/2-3, para. 11.