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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by European Centre for Law and Justice, The / Centre Européen pour le droit, les Justice et les droits de l'homme, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 June 2019]

* Issued as received, in the language(s) of submission only.

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Compelling France not to euthanize disabled persons and to respect UN Committee's decisions

Introduction

The *European Centre for Law and Justice*, along with nearly 60,000 individuals world-wide who have signed its petition to save Vincent Lambert's life, brings to the UN's attention gross misconduct by France towards the UN Committee on the Rights of Persons with Disabilities. It concerns a specific case which this Committee has agreed to examine: *Vincent Lambert v. France* (n°59/2019).

Vincent Lambert had a serious car accident in 2008 leaving him gravely handicapped. He is neither at the end of his life nor suffering from a serious, incurable, or degenerative illness, but in a state of altered consciousness after a traumatic brain injury. He is not dying and can still live for many years. According to the testimony of his parents, his friends and leading medical specialists, he breathes independently and has no cardiac assistance; he wakes up in the morning and falls asleep at night. Some of his emotions can be seen on his face.

If Vincent Lambert were euthanized, 1.700 other persons in the same state of health could suffer the same fate in France.

Background

On May 3rd, 2019, the UN Committee on the Rights of Persons with Disabilities, which had received an application by the Lambert parents for their disabled son, asked France to “*take the necessary measures to ensure that Mr. Vincent Lambert's enteral nutrition and hydration are not suspended while the Committee is processing his case.*”

On May 10th, the parents were informed of the refusal of the French government to comply with the UN request, and that the euthanasia of their son would start on May 20th. The government claimed that the Committee's request was not binding.

France has ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol. The Protocol instructs the Committee on the Rights of Persons with Disabilities to ensure compliance by States with the Convention, and gives it the power to receive “individual complaints” - such as the application of the Lambert parents - and to request the compliance with necessary interim protective measures.

On May 17th, the Committee on the Rights of Persons with Disabilities reminded the French Government of its obligations, again indicating that “*in accordance with Rule 64 of the Committee's Rules of Procedure, the State party has been reminded today to take the necessary steps to ensure that nutrition and hydration are not suspended while the Committee is processing his case.*”

On the same day, the “*Défenseur des droits*”, namely the ombudsman responsible for ensuring the application of this Convention in France declared that “*the provisional measures requested by the United Nations committees must be respected by the State, at the risk of hindering the exercise of the right of complaint under the Optional Protocol.*”

The administrative and district courts were seized, in vain, to judge the compliance with the right of the refusal of the French authorities. The administrative court adopted the government's position, while the district court declared itself incompetent to render a decision.

On May 20th, without waiting for his family to kiss him goodbye one last time, the French physician in charge, Dr Sanchez, sedated Vincent Lambert to anaesthetize him, and simultaneously removed his hydration and nutrition tubes to initiate his death. His agony, and the distress of his parents were followed live by the French and were expected to last the whole week.

Even the European Court, lodged with an emergency application on May 20th, declined to impose the interim measures requested by the UN Committee. The Court said it saw no new

facts likely to make it reconsider its previous decision from 2015, in which it opted to allow for the death of Vincent Lambert. In so judging, the ECHR not only abandoned Vincent Lambert to death once again, but also weakened the authority of its own interim measures. It informed the press of its decision 30 minutes before the start of a new hearing of the case, before the Court of Appeal of Paris.

The Court of Appeal of Paris upheld the government's obligation to respect the interim measures requested by the UN. It stated in its judgment: "*by freeing itself with the execution of the interim measures requested by the Committee, the French State has taken a decision inapplicable to fall within its prerogatives since it undermines the exercise of a right of which deprivation has irreversible consequences in relation to the right to life*".

The Court ordered the immediate restoration of Mr. Vincent Lambert's nutrition and hydration, which was done.

Sadly, however, on May 31st, the French government lodged an appeal in Cassation (the highest court in France) against this last decision of the Court of Appeal of Paris. Such legal action is very rare and especially shocking in this instance as the French government and the French President both claimed that they could not and did not want to interfere in this case.

The actions taken by the French government are in serious contradiction with its international engagements. It is an attack on disabled persons and international law. France must not only respect the international Conventions it freely ratified, but it must also interpret them with good faith, in the light of their object and purpose (Vienna Convention, 1969). Yet, refusing to apply interim measures is depriving the Convention and, what is more, its Optional Protocol of their purpose of offering disabled persons an effective legal international protection.

Request

France should be reminded by the Human Rights Council that disabled people cannot be deprived of food on the basis of their disabilities and that the decisions of UN Committees charged with applying conventions France has ratified are to be domestically acknowledged and enforced.
