



# Convention on the Rights of Persons with Disabilities

Distr.: General  
5 September 2023

Original: English

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## Committee on the Rights of Persons with Disabilities Twenty-ninth session

### Summary record (partial)\* of the 662nd meeting\*\*

Held at the Palais des Nations, Geneva, on Monday, 21 August 2023, at 3 p.m.

*Chair:* Ms. Fefoame

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\* No summary record was prepared for the rest of the meeting.

\*\* No summary record was issued for the 661st meeting.

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*The discussion covered in the summary record began at 4.35 p.m.*

### **Activities under the Optional Protocol to the Convention**

*Follow-up to the inquiry on Hungary (CRPD/C/HUN/IR/1 and CRPD/C/HUN/IR/1/Corr.1)*

1. *At the invitation of the Chair, the delegation of Hungary joined the meeting.*
2. **The Chair** said that, in 2019, the Committee had adopted a report and made recommendations in the context of its inquiry concerning Hungary under article 6 of the Optional Protocol to the Convention (CRPD/C/HUN/IR/1 and CRPD/C/HUN/IR/1/Corr.1). She wished to draw attention to written information received from the State party in follow-up to the inquiry, which had been circulated to Committee members as an informal document, in English only. She invited the delegation of Hungary to inform the Committee of its implementation of those recommendations.
3. **Mr. Prohászka** (Hungary) said that every nation needed to find its own answers to the issues faced by its society. For that reason, the Convention should be understood not as a one-size-fits-all or single recipe but rather as a common basis on which States could find solutions best suited to their specific culture, history and economic situation, among other aspects. In that regard, and in accordance with the principle of “nothing about us without us”, his Government had adopted its principal disability strategy, the National Disability Programme, in 2015. An action plan for the period 2024 to 2025 had been drafted in cooperation with civil society, taking into account the recommendations of the Committee. It was expected to be submitted for approval in the coming months.
4. The independent mechanism required under article 33 (2) of the Convention had been set up within the Office of the Commissioner for Fundamental Rights. A disability advisory board, composed of leading experts in the field of disability, civil society and representatives of organizations of persons with disabilities, was also being established to support the work of the mechanism, which included commenting on the content of draft legislation, making recommendations for amendments to existing laws and participating in the formulation, implementation and monitoring of the National Disability Programme and its associated action plans.
5. There were plans to amend Act XXXI of 1997 concerning the protection of children and the administration of guardianship (the Child Protection Act), in accordance with the Committee’s recommendation to repeal provisions allowing for the institutionalization of children with disabilities under 12 years of age on the basis of disability. Since 2017, there had been a significant increase in the number of foster parents trained to care for children with disabilities. In addition, the Government had adopted a long-term strategy for the period 2019 to 2036 aimed at deinstitutionalizing persons with disabilities, supporting independent living and leveraging technology-based solutions and services. A child home-care benefit had also been introduced for parents caring for children who were unable to live independently owing to severe disabilities or long-term illness, irrespective of their age.
6. In the area of education, a directive concerning education for children with special educational needs had been revised to promote inclusive education. Unlike in most countries of the European Union, in Hungary students with severe or multiple disabilities were included in the public education system. In higher education, a number of affirmative actions had been introduced. For example, students with disabilities were awarded additional points during the application process, exempted from having to take certain subjects and provided with extra time to prepare for examinations. A strategy on vocational training for students with special educational needs was currently being developed.
7. Regarding employment, measures had been taken to support the participation of persons with disabilities in the open labour market. One such measure had been the introduction of an allowance aimed at encouraging persons with disabilities into gainful employment; there were no limits on how much persons with disabilities could earn while receiving such allowances. Although more remained to be done with regard to disability issues, his Government was committed to continuing its efforts in that endeavour, taking into account the recommendations of the Committee.

8. **A representative of Hungary**, providing an overview of the role and responsibilities of her country's national human rights institution, the Office of the Commissioner for Fundamental Rights, said that, in accordance with the Committee's recommendations, an independent mechanism had successfully been set up within the Office. The functions of the Commissioner included assessing the enjoyment of rights of persons with disabilities to ensure alignment with the Convention and initiating measures to address rights violations. The mandate holder also monitored the implementation of the Convention, the National Disability Programme and related measures, submitted recommendations to the Government in respect of disability-related legislation and policy and participated in decision-making on disability issues. Applications to the disability advisory board being set up within the Office were currently being accepted; non-governmental organizations (NGOs) were encouraged to apply.

9. With reference to the Committee's recommendations concerning article 12 on equal recognition before the law (CRPD/C/HUN/IR/1, para. 110), a comparative study had been conducted to ascertain how nine other States members of the European Union and one non-member State dealt with restrictions on the exercise of legal capacity. The Curia, or Supreme Court, of Hungary had also set up a working group to carry out an assessment of judicial practice in guardianship cases, including with regard to the role of guardians, the factors taken into account when restricting the exercise of a person's legal capacity and the time frames set for mandatory review of such decisions. The working group had published a summary of its evaluation. As a result, there were plans to revise the Civil Code in 2024, thus providing an opportunity to review provisions on legal capacity and on the right to vote of persons with disabilities.

10. Various types of training were being carried out to raise awareness of supported decision-making for public officials, including judicial officers, judges and forensic experts. The Ministry of the Interior held a twice-yearly meeting for relevant public officials on supported decision-making, with the aim of discussing legal practice, analysing guardianship cases and establishing a unified approach to the issue. Since 2017, a national association of organizations representing persons with intellectual disabilities had been providing training to Guardianship Authority personnel and child protection guardians, with the aim of providing them with a solid grounding in the concept and practice of supported decision-making. Through organizations of persons with disabilities, efforts were also being made to raise awareness among persons with disabilities and their family members. For example, under an initiative called Alzheimer's Café, information sessions were being held on guardianship and on supported decision-making.

11. Her Government's objective was to explore ways in which persons with disabilities could be supported to make their own decisions. During the European Union programming period for 2021 to 2027, further awareness-raising and training were planned for affected persons, family members and experts, in cooperation with organizations of persons with disabilities. Within that framework, persons with disabilities and their families would receive various support services, such as psychosocial services and lifestyle coaching, to aid their integration into society and raise awareness among vulnerable groups, including women and children with disabilities, of their rights and responsibilities.

12. The Government's aim was to ensure that all persons with disabilities could live in their own homes and communities and enjoy access to any services needed for their physical, mental and intellectual development, independence and autonomy. In Hungary, social services were separated into basic and specialized services. Personal care services were available at the verbal or written request of the person requiring such services or, alternatively, their legal representative if the person in question was a child with disabilities or an adult under guardianship. To accelerate deinstitutionalization, Act III of 1993 on social administration and social benefits (the Social Act) had prohibited the establishment of new nursing and care institutions, and in 2011, the Government had begun to phase out institutions with more than 50 places. However, such institutions would continue to operate and current laws would remain in force until sufficient services were available to support people who could not care for themselves in their homes. The relevant legislation provided guarantees concerning the services available to people living in institutions, the protection of their rights and the adequate operation of institutions.

13. The Government intended to amend the Child Protection Act to align its provisions with the Convention. Until then, special attention would be paid to the provision of foster care to children removed from their families. Children under the age of 12 were placed with foster parents except where it was not in the best interest of the child owing to their chronic illness, severe disability or other condition. Between 2010 and 2022, the proportion of children with chronic illnesses or disabilities who had been successfully placed with foster parents had increased from 50.8 per cent to 59.8 per cent. The increase in that figure had partly been facilitated by the increase in the total number of foster parents in Hungary, which had risen from 5,611 in 2017 to 5,910 in 2022, and the increase in the number of foster parents trained to care for children with special needs – namely, children under 3 years of age and children with chronic illnesses or disabilities – from 1,055 to 2,409 in the same period. The Government had also taken several steps to strengthen foster care, including by aligning the fees paid to foster parents with the minimum wage and paying additional fees to foster parents caring for children up to 2 years of age and children with chronic illnesses, disabilities or multiple special needs. In 2022, foster parents had begun to receive additional compensation to help with overhead expenses and had been allocated funding to acquire medical devices and developmental tools needed to provide appropriate care for children in their charge. In addition, the salary progression of teachers working in specialized child protection institutions had been aligned with that of teachers in the public education system.

14. As of 2015, the only new housing permitted to be built for persons with disabilities, including persons with psychosocial disabilities, was supported housing. A human rights and social approach was taken to the provision of supported housing, the aim of which was to promote the active, equal and independent participation of persons with disabilities in the community. Users were assured of services that were tailored to their needs and adapted to their abilities, and they were free to decide on their preferred form of housing and support. A complex needs assessment was conducted to identify which personalized services should be provided in each case. Users also received support in areas such as mental health, social work and access to the public services needed to lead independent lives.

15. **Ms. Gamio Ríos** (Country Rapporteur) said that it was regrettable that organizations of persons with disabilities that had participated in dialogues with the Committee in the past were not present at the current meeting. The Committee strongly believed that such organizations should enjoy independence in their work and hoped that their absence was not linked to fears of reprisals or the receipt of funding from the Government.

16. She would like to know whether there was scope to bring forward the deadline for reviewing the Civil Code from 2024, and wished to make it clear that the abolition of guardianship was a prerequisite for deinstitutionalization. In that connection, she wondered whether the delegation understood the incongruence of having a single person as the official representative of up to 45 people at once. She also wished to know whether representatives could appoint themselves as guardians.

17. She was keen to hear of the State party's plans to address the dire conditions observed in institutions accommodating persons with psychosocial disabilities and persons with intellectual disabilities, including the recent bedbug infestation reported in one such institution. She would also be grateful if the delegation could confirm whether the State party was planning to comply with article 19 of the Convention, the Committee's general comment No. 5 (2017) on living independently and being included in the community and the guidelines on deinstitutionalization, including in emergencies. Had the Tophaz institution been closed down, and if so, what had happened to its victims?

18. She would appreciate information on measures taken to ensure that independent human rights organizations could carry out monitoring activities inside institutions for persons with disabilities, including small group homes. It was deeply concerning that the main features of institutional settings continued to prevail in supported housing. She was therefore interested in learning whether supported housing remained under the control of the directors and staff of institutions, whether their bills were paid by the State, whether directors continued to ensure discipline and order and whether they followed the guidelines on deinstitutionalization, including in emergencies. Lastly, she would like to know how many children with disabilities could be assigned to a foster parent.

19. **Sir Robert Martin** (Country Rapporteur) said that he would like to hear more about the State party's plans to increase support for families and the provision of foster care to prevent the institutionalization of children with disabilities. He also wished to know whether the number of children in institutions had changed since 2019. It would be interesting to hear more about the 20 hours of education per week provided to some children with disabilities, including whether it was delivered in mainstream schools or in their homes, and whether more children with disabilities were generally being educated in mainstream schools. He was keen to learn about the outcomes of awareness-raising activities and training regarding education, whether organizations of persons with disabilities were involved in their design and delivery, and whether employment among persons with disabilities had increased as a result.

20. He wished to know whether the number of persons with disabilities under full or partial guardianship had changed, whether persons with disabilities leaving large institutions remained under full or partial guardianship and whether persons with disabilities could withdraw from guardianship or supported decision-making arrangements. He would be grateful for information on the outcomes of awareness-raising activities and training carried out within the judicial system. It would be useful to know whether the State party had plans to fully implement supported decision-making in line with the Convention and the Committee's general comment No. 1 (2014) on equal recognition before the law, in particular in the scope of its review of the Civil Code, and whether organizations of persons with disabilities would be involved in that review.

21. The Committee would like to know how persons with disabilities living in institutions in Hungary had been affected by the COVID-19 pandemic, how many had lost their lives because of COVID-19 and how that number compared to the figure recorded among the general population. It would also be helpful to hear whether safety processes implemented before the pandemic had been reviewed since then.

22. The Committee had received reports that persons with disabilities who had left large institutions returned during the day to work in vocational workshops. He would like to know whether that continued to be the case and whether staff from large institutions were now working in supported housing. He wished to know whether information on services and community matters, such as censuses and elections, was available in accessible formats, and whether people living in large institutions and supported housing had taken part in the 2022 census. In addition, he would welcome information on steps taken by the State party to restore the right to vote to all persons with disabilities.

23. **Mr. Al-Azzeh** said that he would appreciate information from the delegation on any measures taken to criminalize the use of forced treatment, such as electroconvulsive therapy, and methods of chemical and mechanical restraint. Statistics on cases in which such methods were used would also be welcomed.

24. **Mr. Schefer** asked whether the State party was genuinely engaging in a process aimed at the eventual abolition of guardianship and substitute decision-making in line with the Convention.

25. **Ms. Thongkuay** said that, in the light of the abolition of the Equal Treatment Authority, she would like to receive information on mechanisms, political commitments and plans of action aimed at harmonizing and reinforcing the domestication of articles 5 and 12 of the Convention, including information on the timeframes, budgets, targets and indicators of any such plans. The delegation might also wish to comment on the State party's obligation, as a State member of the European Union, to maintain an effective, strong and sustainable equality unit and its responsibility under the Convention to engage in close consultation with, and ensure the meaningful participation of, organizations of persons with disabilities.

26. **Ms. Kayess** said that she wished to know how European Union funding was being used to advance deinstitutionalization and whether it was being used to support existing institutions or establish smaller institutions. She would also appreciate information on the support provided to persons with disabilities leaving institutions, in particular the provision of trauma-informed support and support in developing the skills needed to live in communities, interact with others and build relationships. Given that the Office of the Commissioner for Fundamental Rights had been downgraded to category B status by the

Global Alliance of National Human Rights Institutions, she wondered whether the State party planned to take measures to ensure that the Office of the Commissioner would be able to comply with the obligations imposed on institutions accredited with category A status.

27. **Ms. Fernández de Torrijos** said that, although millions of forints had been invested in deinstitutionalization, some group homes continued to accommodate up to 50 people at a time, many of whom never left. The authorities had consistently refused to address the rights of persons with disabilities in such situations. Furthermore, the State party did not appear to support the full legal rights and legal capacity of persons with disabilities. Could the delegation provide clarification on those matters?

28. **Mr. Kabue** said he would be interested to know about the relationship between the Government and organizations of persons with disabilities. The Committee had struggled to obtain information from those organizations, which suggested that they feared reprisals for any criticism of the Government. The State party had referred to measures taken to train guardians to transition from substitute to supported decision-making. He wished to know what curriculum had been used for that purpose and what the impact of the training had been.

29. **Ms. Aldana Salguero** said that over the past 20 years there had been no pregnancies or abortions registered among persons with disabilities in institutions, which suggested that the use of contraceptives was standard practice. She therefore wished to know what guarantees and verification measures were in place with regard to informed consent, in particular for the administration of medication and contraceptives to persons resident in those institutions.

30. **Ms. Fitoussi** said that she remained concerned about the situation of persons with disabilities in Hungary, since the progress reported was particularly slow. She wished to know how many children with intellectual disabilities were educated in mainstream schools, what support was provided for them and what training was offered to teachers.

31. **A representative of Hungary** said that, according to the Hungarian Central Statistical Office, the placement of children in foster families had increased significantly between the end of 2018 and the end of 2022, and the number of foster families registered had increased by five per cent. Among those, the number of foster families for children with very special needs had more than doubled. Concerning the sexual and reproductive rights of persons in institutions, individual institutions determined the possibility of sexual activity. Many institutions had private rooms and family rooms for maintaining intimacy and discretion. Staff of institutions and services were encouraged to inform residents about responsible sexual behaviour and the importance of contraception.

32. There were currently over 5,000 people in supported housing services, a significant proportion of which were in Budapest and other large towns; it was a misconception that those services were only in place in small towns and villages. Persons in supported housing services had equal access to health care. They were not under the control of staff, but rather were supported by staff providing various basic services to assist them in their everyday lives. Those services were organized on a case-by-case basis, through a comprehensive needs assessment, and funded accordingly by the Government. The services ranged from the provision of day care to support at work, and assistance with daily tasks such as shopping, cooking and cleaning, as required. Every effort was made to ensure that people in supported housing arrangements were given as much independence as possible. Smaller community-based social services and supported housing for groups of six or seven individuals were being developed to encourage independent living to the extent possible for persons with disabilities, with support from the church and from NGOs. Applications for the first intake of residents of those homes would be open until December 2023. In line with the recommendations of the Committee, legislative amendments had been made, stipulating that institutions providing long-term care for persons with disabilities with more than 50 residents must have their capacity reduced by the end of 2025, in an effort to improve living conditions. Legislation had also been enacted on programmes for the development and support of independent living for persons with disabilities, in a switch to people-centred, community-based personal support services. In 2023, the categories of supported living had been revised, and support for persons with autism had been included.

33. Employment integration for persons with disabilities was a priority objective for the Government. Caps on working hours and maximum earnings for persons with disabilities had been lifted in 2021, to enable them to work freely, according to their ability. Practical and financial support for rehabilitation was provided for persons with disabilities in the working world, including a variety of benefits and allowances such as disability support, invalidity support and a personal allowance for persons with severe disabilities. Tax breaks for persons receiving certain disability allowances were provided pursuant to legislation on personal income tax. Incentives, such as a social tax allowance, had been introduced to encourage employers to employ workers with disabilities, while forfeits would be incurred if quotas of employees with disabilities were not met.

34. By 2021, 81 per cent of all education institutions in Hungary had been equipped to provide education for children with special educational needs, which was a significant increase since 2015. School transport services were provided for children needing to travel to attend a school that would meet their specific educational needs. Financial support was also available for the families of children with special educational needs, to facilitate access to schools. The National Disability Programme would be accompanied by an action plan, which was currently under preparation. The current Programme was due to expire at the end of 2025, and the Committee's recommendations would be taken into account when drafting the subsequent programme and setting the targets and indicators for its implementation. With regard to training for supported decision-making, the curriculum had been devised with the input of organizations and advocates for persons with disabilities.

35. **Mr. Prohászka** (Hungary) said, with regard to the possibility of civil society fearing reprisals for criticism of the Government, that a new mechanism for NGO participation had been set up by the National Council on Disability. The mechanism, which would hopefully remedy any problems of communication between the Government and NGOs, was currently being reviewed by civil society.

36. **Ms. Gamio Ríos** said that it was regrettable that the State party delegation had not included a high-level decision-maker such as a minister or deputy minister. The Committee remained concerned that the system of guardianship in the State party was being maintained, and that the Committee's guidelines on deinstitutionalization, including in emergencies, and its recommendations on supported decision-making were not being applied in full. The Committee had received reports of persistent human rights violations in institutions, in particular the use of private holding rooms, similar to those used for prison interrogations, and rooms with glass walls where residents were deprived of their right to privacy. The measures taken to improve supported living still did not meet the standards established in articles 12 and 19 of the Convention and were not in line with the Committee's guidelines on deinstitutionalization, including in emergencies. The gradual deinstitutionalization process under way was far too slow, particularly given that the measures being taken were not in line with the Committee's recommendations.

37. **Sir Robert Martin** said that placing any person with a disability under guardianship and restricting the exercise of his or her legal capacity was in violation of article 12 of the Convention. He urged the State party, in its revision of the Civil Code, to make its provisions fully compliant with the Convention. The country's supported housing system constituted institutionalization under article 19 of the Convention. In the eyes of the Committee, reducing the capacity of supported houses did not constitute deinstitutionalization, but rather transinstitutionalization. The State party was urged to take due account of article 19, the Committee's general comment No.5 on the right to live independently and be included in the community, and its guidelines on deinstitutionalization, including in emergencies.

*The meeting rose at 6.05 p.m.*