



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Decision adopted by the Committee under the Optional Protocol, concerning communication No. 76/2020*, **

<i>Communication submitted by:</i>	J.-L.K. (not represented by counsel)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Canada
<i>Date of communication:</i>	21 January 2020 (initial submission)
<i>Date of adoption of decision:</i>	19 March 2024
<i>Substantive issue:</i>	Barrier-free housing

1. The author of the communication is J.-L.K., a national of Canada born on 10 June 1986. She claims to be the victim of violations by the State party of articles 3, 4, 5, 9, 19 and 28 of the Convention. The Optional Protocol entered into force for the State party on 2 January 2019. The author is not represented by counsel.

2. The author has a chronic physical disability. On 3 June 2015, the author submitted a code change request (No. 964) to the Canadian Commission on Building and Fire Codes, expressing concerns over the objectives of the National Building Code concerning accessibility, health and safety. Pursuant to the request, a draft policy paper on accessibility was produced, which referred to the concerns expressed by the author. However, the exemption of certain types of housing from requirements for barrier-free design was not repealed in the 2020 update of the National Building Code (sect. 3.8.2.1).

3. The author submitted complaints to the Canadian Commission on Building and Fire Codes, the National Research Council of Canada, the Cabinet, the federal Government, the provincial government and the municipal government, but to no avail. The author claims that the lack of effective response to these complaints reveals that persons in Canada with disabilities affecting their mobility continue to face architectural barriers in new housing because of decades of building code policies that have ignored basic human rights.

4. The author states that as a result of the exemption, persons with disabilities face obstacles in access to housing, as barrier-free housing options are often limited and difficult to obtain owing to long waiting lists and income restrictions. Furthermore, persons with disabilities are prevented from choosing their place of residence on an equal basis with others, as they are forced to live in chronic care centres or in inadequate and/or unsafe buildings.

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

** The following members of the Committee participated in the consideration of the communication: Muhannad Salah Al-Azzeh, Rosa Idalia Aldana Salguero, Rehab Mohammed Borelli, Gerel Dondovdorj, Gertrude Oforiwa Fefoame, Vivian Fernández de Torrijos, Odelia Fitoussi, Amalia Eva Gamio Ríos, Samuel Njuguna Kabue, Rosemary Kayess, Kim Mi Yeon, Alfred Kouadio Kouassi, Abdelmajid Makni, Sir Robert Martin, Floyd Morris, Markus Schefer and Saowalak Thongkuay. Pursuant to rule 60 of the Committee's rules of procedure, Laverne Jacobs did not participate in the consideration of the communication.



The State party's National Housing Strategy fails to address this problem in the private housing market and requires only 20 per cent of public units to be accessible. The State party is also failing to provide for the right of persons with disabilities to an adequate standard of living, including housing.

5. The author explains that she did not pursue any legal action owing to concerns regarding the potential financial hardship that it would entail for her and the prolongation of the alleged injustice throughout the duration of the legal process.

6. In its observations of 12 March 2021, the State party submitted that the communication was inadmissible as the author had not exhausted domestic remedies, and because it was manifestly ill-founded. The State party also submitted that the author's claims alleging violations on behalf of persons in Canada with disabilities affecting their mobility and her claims alleging violations of domestic laws or international instruments other than the Convention should be declared inadmissible because they were incompatible with the provisions of the Convention. The State party further submitted that the communication was without merit.

7. On 17 March 2021, the State party's observations were transmitted to the author for comments. The secretariat sent reminders to the author on 2 September 2021, 28 January 2022 and 16 February 2023. No response was received from the author.

8. At a meeting on 19 March 2024, the Committee, given that the secretariat had lost contact with the author, decided to discontinue the consideration of communication No. 76/2020.
