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**Committee on the Rights of Persons with Disabilities****Decision adopted by the Committee under article 5 of the  
Optional Protocol, concerning communication No. 72/2019\*, \*\***

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|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Communication submitted by:</i>       | V.P.                                                                                                                                                                        |
| <i>Alleged victim:</i>                   | The author                                                                                                                                                                  |
| <i>State Party:</i>                      | Lithuania                                                                                                                                                                   |
| <i>Date of communication:</i>            | 17 October 2019 (initial submission)                                                                                                                                        |
| <i>Document references:</i>              | Decision taken pursuant to rule 68 of the Committee's rules of procedure, transmitted to the State Party on 17 October 2019 (not issued in document form)                   |
| <i>Date of adoption of decision:</i>     | 26 August 2025                                                                                                                                                              |
| <i>Subject matter:</i>                   | Amount of compensation granted for incurring a disability                                                                                                                   |
| <i>Procedural issues:</i>                | Exhaustion of domestic remedies; substantiation of claims; admissibility <i>ratione materiae</i> ; admissibility <i>ratione temporis</i> ; abuse of the right of submission |
| <i>Substantive issues:</i>               | Discrimination on the ground of disability; access to justice; social security rights                                                                                       |
| <i>Articles of the Convention:</i>       | 3(a) and (c), 4(1)(e), 5(2), 13, 19 and 28                                                                                                                                  |
| <i>Article of the Optional Protocol:</i> | 2 (b), (d), (e) and (f)                                                                                                                                                     |

1.1 The author of the communication is V.P., a national of Lithuania born in 1975. The author claims that the State Party has violated his rights under articles 3(a) and (c), 4(1)(e), 5(2), 13, 19 and 28 of the Convention. The Optional Protocol entered into force for the State Party on 17 September 2010. The author is represented by counsel, Stanislovas Tomas.

1.2 On 29 January 2020, the State party requested that the admissibility of the communication be examined separately from the merits. On 2 April 2020, the Committee,

\* Adopted by the Committee at its thirty-third session (11–29 August 2025).

\*\* The following members of the Committee participated in the consideration of the communication: Muhannad Salah Al-Azzeh, Rehab Mohammed Boresli, Magino Corporán Lorenzo, Gerel Dondovdorj, Mara Cristina Gabrielli, Amalia Gamio Rios, Laverne Jacobs, Rosemary Kayess, Miyeon Kim, Alfred Kouadio Kouassi, Abdelmajid Makni, Christopher Nwanoro, Gertrude Oforiwa Fefoame, Markus Schefer and Hiroshi Tamon. Pursuant to rule 60 of the Committee's rules of procedure, Inmaculada Placencia Porrero did not participate in the consideration of the communication.

acting through its Special Rapporteur on new communications and interim measures, denied the State Party's request.

1.3 On 7 and 21 January 2021, the Committee, acting through its Special Rapporteur on new communications and interim measures, denied the counsel's request for protection measures and for his anonymity, respectively.

## **A. Summary of the information and arguments submitted by the parties**

### **Facts as submitted by the author**

2. On 25 January 2003, an armed gang entered the author's house and shot him, damaging his lungs, rib and legs. The author thus incurred a disability, which was initially assessed as being at 45% and in 2014 reassessed at 60%. On 11 April 2005, he lodged a claim for damages in the criminal proceedings for the attack against him. On 8 September 2006, the Siauliai Regional District Court convicted the gang members and recognised that the author had a right to damages but ordered that a civil cases chamber of the same court should consider the issue of damages. On 5 December 2006, following the author's appeal, the Siauliai Regional Court upheld said judgment. On 11 July 2007, the author sued all gang members for damages, claiming LTL 250,000 with 5 percent interest as of 11 April 2005. On 2 April 2009, the Siauliai Regional Court ordered one of the gang members to pay the author LTL 50,000. By judgment of 31 January 2011, the Lithuanian Appellate Court increased the damages awarded to the author to LTL 80,000 with 5 percent interest from 11 July 2007. On 15 April 2011, the author filed a cassation appeal claiming the difference between his initial claim and the damages granted of LTL 170,000 and for the interest to be calculated from 11 April 2005. On 3 March 2014, the Lithuanian Supreme Court upheld the appellate decision regarding the amount of the damages but set the starting date of the interest at 30 August 2007.

### **The complaint**

3.1 The author claims a breach of his rights under articles 3(a) and (c), 4(1)(e), 5(2), 19 and 28 of the Convention in that the State Party's authorities awarded him insufficient compensation for his disability and inaccurate assessment of incapacity to work at 60%. The author requested LTL 250,000, the equivalent of 128 average monthly salaries at the time, but was only awarded LTL 80,000, the equivalent of 41 months. According to the author, the gang shot him to cause him a disability or death and their intention was thus to discriminate against him on the basis of his disability or death. Given the State Party's obligation to protect him from discrimination by any person, the decision to award him the equivalent of 41 average monthly salaries rather than 128 constitutes a breach of his rights under articles 4(1)(e) and 5(2) of the Convention. It also constitutes a breach of his right to dignity under article 3(a), as he had three minor children; his right to full and effective participation under article 3(c) as the damages awarded "might not" re-establish his full and effective participation; his right to living independently and being included in the community under article 19, as the damages awarded might not re-establish such living and inclusion; and his right to an adequate standard of living under article 28 of the Convention, of which the shooting deprived him and which the damages awarded might not re-establish.

3.2 The author also claims a breach of his rights under article 13 of the Convention, as he lodged a claim for damages on 11 April 2005 in the context of the criminal proceedings, but the Lithuanian Supreme Court later held that he could not lodge the claim within said procedure and had to wait until its termination in order to start separate civil proceedings, and that the interest on the damages would start to run only from the date of the decision on the admissibility of the claim. However, according to the author, article 13 of the Convention provides persons with disabilities the right to claim damages immediately, i.e. on 11 April 2005 in his case.

3.3 The author invites the Committee to request the State Party to reopen his case and pay him damages to cover the part of his claim not previously granted, i.e. LTL 170,000 plus five percent interest on this sum starting from 11 April 2005 and €10,000 in costs. The author requests that the State Party be invited to educate public servants and judges about the rights

under the Convention, dismiss public servants denying the binding nature of the Convention and the Committee's Views and concluding observations, ensure that the present breaches of the Convention are investigated promptly, thoroughly and impartially, hold the perpetrators to account and avoid committing the same breaches in the future.

### **State Party's observations on admissibility**

4.1 In its observations dated 29 January 2020, the State Party notes that in his appeals, the author objected to the amount of the non-pecuniary damages and the joint civil liability of the defendants but did not claim that they discriminated against him on the basis of his disability or that they infringed on his dignity pursuant to articles 3(1), 4(1)(e) and 5(2) of the Convention. The State Party therefore considers that the communication is inadmissible under article 2(d) of the Optional Protocol.

4.2 The State Party also considers that the communication is inadmissible under article 2(b) and (e) of the Optional Protocol as incompatible with the provisions of the Convention and insufficiently substantiated, in the absence of any indications as to why the State Party breached the author's rights under the Convention. Referring to article 28 of the Convention, the State Party observes that the non-pecuniary damages awarded constitute a lumpsum payment for the damage caused to his health and should not be considered as a measure taken to ensure an adequate standard of living. Rather, periodic social benefits are paid to him that ensure his adequate standard of living. The author was not subjected to any discriminatory treatment.

### **Author's comments on the State Party's observations on admissibility**

5.1 In his comments dated 28 February 2020, the author affirms that in his domestic complaint, he argued that the gang intended to cause him a disability, which, he submits, amounts to a complaint of discrimination on the ground of disability. As he claimed before the courts that the gang robbed his house while he had a disability and could not resist, he has effectively invoked a violation of his rights under article 3(a) of the Convention. The author did not invoke specific provisions of the Convention as the Convention is not part of the Civil Code and the representative of the State Party, who judges follow, has publicly stated that the Convention is not binding. Thus, the author submits that he has exhausted domestic remedies.

5.2 The author argues that he has sufficiently substantiated his claims. The gang violated his rights under the Convention by causing his disability and robbing him of his property. With respect to article 28 of the Convention, the State Party breached his rights refusing to compensate him adequately. As he was 28 years old at the time of the robbery, he could have worked for another 37 years until reaching the pension age of 65 years. With a remaining capacity to work of 40%, he could earn income equivalent to 14.8 years and he was denied income equivalent to 22.2 years, i.e. 266 months. He claimed the equivalent of 128 monthly salaries instead of 266 but was awarded only 41. The State Party failed to provide adequate compensation for breaches of the Convention by not awarding him the remaining 87 average monthly salaries. The author refutes that the State Party has fulfilled his rights under article 28 of the Convention by paying him social benefits, as the concept of adequate standard of living is broader than this and also covers loss of income caused by his disability.

5.3 The author submits that his claim under article 13 of the Convention is sufficiently substantiated, as the principle of effective access to justice entails the right to obtain interest on damages to be paid from the date of lodging the claim. The author filed his claim on 11 April 2005, but the Lithuanian Supreme Court held that he had to wait until the end of the criminal procedure to start separate civil proceedings, and that the interest on damages started to run on the day of the admissibility decision on the civil claim following the conclusion of the criminal proceedings, i.e. on 11 July 2007.

5.4 The author requests that he be paid 87 average monthly salaries, applying the average gross monthly salary level of the year 2020, with 5% interest starting from 11 April 2005 and €13,000 for legal costs.

**State Party's observations on the merits**

6.1 In its observations dated 27 July 2020, the State Party notes that article 30(2) of the Constitution of the Republic of Lithuania provides that compensation for material and moral damages shall be established by law. Material damages are, in principle, compensated fully. Moral damages, however, can only be assessed conditionally and compensated materially. The State Party's Civil Code does not limit the amount of compensation for moral damages. The amount of monetary compensation in each case is determined by the courts in accordance with article 6.250 of the Civil Code taking into account individual circumstances including the consequences of the damages, the responsibility of the person who caused the damage, that person's property situation, the amount of material damage as well as principles of fairness, justice and reasonableness. Significant health issues are also considered. Thus, in the case of the author, the court considered the damage to his health status, the intentional brutality of the defendants, the severity of the injury, and the long-lasting physical and mental consequences for the author, who was still young and whose ability to choose his job was limited. The court also considered that his state of health was partially influenced by other factors including a childhood neuro-infection. According to the State Party, the purpose of monetary compensation for moral damage is not to compensate all possible future wage losses, the calculation of which is not always possible, including because the author continued working. Rather, the purpose is to identify material preconditions for re-creating what cannot be returned and to compensate as fairly as possible what often cannot be replaced, including money and material possessions. Thus, the courts ensured the proper application and interpretation of the Civil Code in determining the amount of monetary compensation.

6.2 Regarding the author's claim under article 13 of the Convention, the State Party notes that pursuant to the Civil Code, procedural interest is paid from the commencement of the case in court, i.e. the moment of adoption of the judgment, until its full execution. The court may not change the calculation of the interest at its discretion. As the author filed his claim for procedural interest only on 11 July 2007, and his action was accepted on 30 August 2007, his claim under article 13 of the Convention is unfounded. The State Party concludes that the author received effective non-pecuniary damages and that he did not experience discrimination.

**Author's comments on the State Party's observations on the merits**

7.1 In his comments dated 12 December 2020, the author claims that the State Party has failed to legislate the possibility of invoking the Convention before the Lithuanian Supreme Court and to recognise the Convention as part of its Civil Code. Moreover, the State Party's representative has publicly denied that the Convention is binding. Therefore, the author has not invoked specific articles of the Convention.

7.2 According to the author, when a disability is caused intentionally, the person responsible must provide an adequate standard of living to the victim for the rest of the latter's life, but the State Party failed to issue a corresponding order. The author reiterates that the concept of an adequate standard of living goes beyond social protection and covers loss of income caused by the fact that the gang caused him to have a disability.

7.3 Under article 13 of the Convention, the author argues that he should have been allowed to lodge a civil claim within the criminal proceedings, and that the courts' decision that he could only lodge a civil claim after the conclusion of the criminal proceedings "may be explained by corruption only". Despite the practice of considering civil claims within civil proceedings, the author was obliged to pay court fees and hire a private lawyer for the separate civil proceedings, which was a considerable financial burden for him. He was disadvantaged as the interest was calculated starting from 11 July 2007 rather than from 11 April 2005.

**State Party's additional observations**

8.1 In its additional observations dated 16 April 2021, the State Party qualifies the author's communication as "fictitious" and argues that his counsel "mocks" the Convention, the Optional Protocol and the State Party. The State Party notes that in its judgment of 2 April

2009, the Siauliai Regional Court established that the author acknowledged that his pre-existing health conditions had affected his capacity to work, and that the robbery was thus not the only factor. The State Party disputes that the robbery would not have happened if the author had not incurred a disability and that this constituted discrimination. According to the State Party, the robbers' only intention was to steal valuables, and they did not intend and could not know that their shooting would result in his disability. The State Party considers that the author was properly compensated for his suffering. Compared to the gross average wage at the time of LTL 2,072, the compensation of LTL 80,000 was significant.

8.2 The State Party affirms that the treaties it has ratified are a constituent part of its legal system. The Supreme Court has directly applied the Convention in holding that certain provisions of the Civil Code were unlawful.

#### **Author's additional comments**

9.1 In his comments dated 26 August 2021, the author argues that the State Party acknowledges that he did not have a disability before the robbery and that the robbery "happened because" the gang members had caused him to incur a disability. They would not have been able to rob a person without disabilities, and he was thus discriminated against. They did so with the intention of excluding him from society, as defending one's home constitutes participation in society. The author claims that the State Party's denial that the gang members intended to cause him a disability or to murder him is insulting and requests the Committee to "award" him ten gross average Lithuanian salaries in compensation. He requests the same amount in respect of his counsel because of the "persecution, harassment and intimidation" by the State Party's representative and €15,000 for legal costs. He requests the Committee to formulate the amount of compensation due in concrete figures.

9.2 The author argues that the Civil Procedure Code does not provide for the possibility of re-opening a case based on Views adopted by the Committee. Moreover, the Supreme Court refused to execute the Committee's Views in *Makarov v. Lithuania*.<sup>1</sup>

## **B. Committee's consideration of admissibility and the merits**

### **Consideration of admissibility**

10.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with article 2 of the Optional Protocol and rule 65 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

10.2 The Committee notes that whereas the author complains of several judicial decisions that were taken before entry into force of the Optional Protocol for the State Party on 17 September 2010, the Lithuanian Appellate Court and the Lithuanian Supreme Court issued their decisions regarding the author's claims after said date, on 31 January 2011 and 3 March 2014 respectively. It observes that both of these decisions addressed the main issue raised before the Committee, namely, the amount of compensation awarded to the author following his disability. The Committee therefore considers that it has competence *ratione temporis* to consider the present communication pursuant to article 2 (f) of the Optional Protocol.<sup>2</sup>

10.3 The Committee notes the author's claim that the compensation granted to him is inadequate as it is short of the equivalent of the monthly incomes he allegedly lost until the age of 65 because of the disability he incurred. In this regard, the Committee considers that the determination of compensation for the author in connection with his disability pertains to the application of domestic legislation. The Committee recalls that it is generally for the courts of States parties to the Convention to evaluate facts and evidence or the application of domestic law in a particular case, unless it is found that the proceedings before the domestic

<sup>1</sup> CRPD/C/18/D/30/2015.

<sup>2</sup> *S.K. v. Finland* (CRPD/C/26/D/48/2018), para.8.3.

courts or the evaluation were clearly arbitrary or amounted to a denial of justice.<sup>3</sup> In the present case, the Committee notes the observation by the State party that the courts determine the amount of monetary compensation in accordance with article 6.250 of the Civil Code taking into account individual circumstances, including, in the author's case, the damage to his health status, the intentional brutality of the defendants, the severity of the injury, and the long-lasting physical and mental consequences for the author, who was still young and whose ability to choose his job was limited. In light of the foregoing, and in the absence of any other relevant materials on file, the Committee considers that the author has failed to substantiate, for purposes of admissibility, that the decisions by the domestic courts were arbitrary or constituted a denial of justice.

10.4 The Committee notes that the author's understanding of discrimination on the basis of disability may not coincide with the meaning of this term under article 2 of the Convention. However, as this point has not been invoked as a separate claim, the Committee deems it unnecessary to address this question in the present decision. Moreover, the Committee notes that the author has not provided any information regarding the State Party's responsibility for the aggression by the gang members. Similarly, the Committee considers that the author has failed to provide any evidence to show that he or his counsel have been subjected to intimidation or reprisals by means of the State party's observations in the present communication. Accordingly, the Committee finds that the communication is insufficiently substantiated and therefore inadmissible under article 2(e) of the Optional Protocol.

## C. Conclusion

11. The Committee therefore decides:

- (a) That the communication is inadmissible under article 2(e) of the Optional Protocol;
  - (b) That the present decision shall be communicated to the State Party and to the author.
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<sup>3</sup> *Sabadie v. France* (CRPD/C/29/D/52/2018), para. 10.4; *Sahlin v. Sweden* (CRPD/C/23/D/45/2018), para. 8.6; *Jungelin v. Sweden* (CRPD/C/12/D/5/2011), para. 10.5; *L.M.L. v. United Kingdom of Great Britain and Northern Ireland* (CRPD/C/17/D/27/2015), para. 6.3; *M.Y. v. Sweden* (CRPD/C/24/D/49/2018), para. 6.6; *F.O.F. v. Brazil* (CRPD/C/23/D/40/2017), para. 8.7; *R.I. v. Ecuador* (CRPD/C/22/D/25/2014), para. 11.17; *A.F. v. Italy* (CRPD/C/13/D/9/2012), para. 8.4; *Bacher v. Austria* (CRPD/C/19/D/26/2014), para. 9.7.