

Advance unedited version

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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. 71/2019*, ****

<i>Communication submitted by:</i>	G.B.
<i>Alleged victim:</i>	The author
<i>State Party:</i>	Lithuania
<i>Date of communication:</i>	20 December 2018 (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
<i>Substantive issues:</i>	Discrimination on the ground of disability; access to justice; social security rights
<i>Articles of the Convention:</i>	3(a), 5(3), 9(1)(a), 19(a), 20(a) and (b) and 28(1)
<i>Article of the Optional Protocol:</i>	2 (b), (d), (e) and (f)

1.1 The author of the communication is G.B., a national of Lithuania born in 1962. The author claims that the State Party has violated his rights under articles 3(a), 5(3), 9(1)(a), 19(a), 20(a) and (b) and 28(1) 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

Factual background

2.1 As a result of an accident, the author had an operation on 23 December 2001, spent 57 days in coma and lost 80% of his capacity to work. He cannot walk as the entire left side of his body is paralysed and he is unable to use a wheelchair or wash himself. The author thus requires reasonable accommodation in the form of an adaptation of his apartment. In an undated invoice, private limited liability company Barnasta estimated the costs of the necessary work of the author's apartment on Sopranų Street in Kaunas to amount to €15,379.70. The author's monthly income is €419.50.

2.2 On 20 May 2002, the author applied to the Municipality of Kaunas for reasonable accommodation. From 2006 until 2009, the author's application for accommodation was suspended, as he was searching for another dwelling.¹ On an unspecified date in 2015, following the absence of any action by the Municipality, he sued the latter and claimed €15,379.70 of pecuniary compensation to cover the cost stated in the invoice, €3,000 of non-pecuniary damages and five percent annual interest. On 11 November 2015, the Kaunas City District Court dismissed his application, which was considered in relation to the adaptation of an apartment he had meanwhile bought on Kudirkos Street in Kaunas on the ground that adaptation of accommodation for persons with disabilities is possible only when the person has declared their place of residence in the dwelling and lives there. The author failed to comply with these criteria despite having been informed about them several times. The author was evicted on 18 August 2015 pursuant to a decision dated 16 September 2010. He registered his place of residence at Kudirkos Street on 6 October 2015.

2.3 On 2 June 2017, a Housing Adaptation Commission established by the Kaunas Municipality on 26 April 2017 informed the author that it had decided to adapt his accommodation within six months according to a preliminary description of adaptation of the accommodation provided by the Commission subject to the condition that he would provide proof of consent for the adaptation of the common premises by the majority of the owners of the house, as required by the Civil Code. Legislation in force at the time provided for such adaptation based on a waitlist. However, the author did not agree with these conditions. The author submits that he provided proof of consent of the owners on 16 May 2017. According to the relevant part of article 11(3) of the Law on Social Integration of Persons with Disabilities, "[w]hen the owners of the apartments or other parts of the building decide not to adapt the commonly used spaces of the apartment buildings or they decide to adapt the environment using funds that are not provided by the owners of apartments or other parts of the building, the decision is made by the municipal authorities when they receive a request for adaptation from the owners of apartments or other parts of the building to adapt the environment, the decision is made following the procedure laid out in the social security and labour minister's procedure on adaptation of living spaces for disabled".

¹ The State Party notes that during the Soviet occupation, real state property was nationalised, and that after Lithuania regained its independence, newly adopted laws allowed citizens to restore their property rights. Property rights were thus returned to the owners and persons living in affected apartments were paid market value compensation. Likewise, on 29 December 2008, a decision was adopted to provide the author and his family with LTL 254,000¹ as the apartment at Sopranų Street was to be returned to its owners. The author and his family bought the apartment on Kudirkos Street on 7 October 2009 with the money received. As the guarantee was implemented on 29 December 2008, the family had to vacate the old apartment by 29 April 2009. On 13 October 2009, the author requested the adaptation of the apartment at Kudirkos Street, although his wife kept requesting an adaptation of the apartment at Sopranų Street until 2015.

2.4 In its decision dated 7 November 2017, the Kaunas Regional Court referred to articles 2, 19(a) and 28(1) of the Convention. It found that the long period that the author had been required to wait for the housing adaptation was contrary to his rights under the Convention, and under article 8 of the Convention for Protection of Human Rights and Fundamental Freedoms, and that it could not be justified by the limits established in applicable regulations. The Regional Court found that the author was not entitled to a compensation greater than 148 “basic social payments” and granted pecuniary compensation amounting to €5,624, which constitutes the maximum amount that can be awarded for reasonable accommodation under section 55 of Order No. A1-560 of the Minister of Social Security and Labour, and €1.500 for non-pecuniary damages with 5% annual interest related to the absence of a reaction by the Municipality for 15 years. On 6 February 2018, the author filed a cassation appeal. On 13 February 2018, the Supreme Court declared his appeal inadmissible as his submissions did not meet the cassation requirements.

The complaint

3.1 The author claims that in its decision dated 7 November 2017, the Kaunas Regional Court qualified the lack of provision of reasonable accommodation since 20 May 2002 as a breach of articles 19(a) and 28(1) of the Convention. The Court did not question the invoice of Barnasta amounting to €15,379.70 or the need for the work mentioned in it. According to the author, Section 55 of Order No. A1-560 and the amount of the award granted to him are contrary to his full enjoyment of his right to live in the community with choices equal to others and to his full inclusion, as the award is only 36% of the invoice. Further, it is inadequately small for accommodating him in his house. Section 55 of Order No. A1-560 and the award granted under it are therefore also contrary to his rights to an adequate standard of living and adequate housing under article 28(1) of the Convention.

3.2 According to the author, Section 55 of Order No. A1-560 is also contrary to his rights under articles 5(3), 9(1)(a), 20(a) and 20(b) of the Convention. The author argues that awarding €5,624 instead of €15,379.70 does not amount to “all appropriate steps” or to “reasonable accommodation” under article 5(3) of the Convention. The amount of the award was also contrary to his right to participate fully in all aspects of life and to have access to the physical environment, including buildings, under article 9(1)(a) of the Convention, as, at the time of the submission of the communication, he had been “imprisoned” at his home for already 16 years. It is also contrary to his right to personal mobility under article 20(a) and (b) of the Convention as he is unable to move inside his apartment as the doors are insufficiently wide, he is unable to shower or use the toilet independently and the State Party has failed to allow the author to have Barnasta install assistive technologies in his apartment.

3.3 The author invites the Committee to request that the State Party reopen his case, pay him the difference between Barnasta’s invoice and the award granted to him of €9,755.70 plus 5 percent interest compounded annually, non-pecuniary damages of €10,000 and costs of €10,000. 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 the author filed a claim for compensation directly with the Kaunas District Court rather than presenting it to the Municipality as legislation at the time allowed. The State party argues that the author breached the rights of other persons with disabilities on the waitlist who were waiting for compensation and who complied fully with the requirements by applying directly to the District Court instead of applying to the Municipality.

4.2 The State Party argues that the author only complained about the amount of pecuniary and non-pecuniary compensation granted to him and that he never complained about violations of articles 5(3), 9(1), 19(a), 20(a) and (b) and 28(1) of the Convention or about the incompatibility of the regulations on housing adaptation with the Convention. The State Party

notes that the amount was determined in accordance with article 55 of the Description of the Adaptation of Accommodation in force at the time, according to which a maximum of €5.624 may be allocated to cover the costs of adjustments to one accommodation for a person with disabilities. The State Party therefore submits that the communication is inadmissible under article 2(d) of the Optional Protocol for non-exhaustion of domestic remedies.

4.3 The State Party further submits that the communication is inadmissible under article 2(e) of the Optional Protocol as insufficiently substantiated and as incompatible with the provisions of the Convention. According to the State Party, the author has not indicated why it has breached his rights under the Convention. In conformity with article 9(1) of the Convention, the State Party's legislation ensures the adaptation of accommodation for persons with disabilities according to their requirements and it has mechanisms in place for the provision of such services. The State Party observes that the Convention does not regulate the exact rules on the adaptation of accommodation. Therefore, the application of a requirement to declare one's place of residence beforehand should be considered reasonable.

Author's comments on the State Party's submission

5.1 In his comments dated 28 February 2020, the author affirms that he has exhausted domestic remedies. The State Party's argument to the contrary concerning his claim under article 5(3) of the Convention constitutes an "abuse of procedure". The author argues that exhaustion of this provision entails that he also exhausted his claim under article 3(a) of the Convention, as he could not have his apartment made accessible without the consent of his neighbours. He also exhausted remedies in relation to his claims under articles 9(1), 20(a) and (b) and 28(1) of the Convention, as he could not afford to pay for the works and assistive technologies required for him to be able to enjoy adequate housing and personal mobility. The author affirms that his objection to the amount of the compensation amounts to a complaint of a violation of articles 5(3), 9(1), 19(a) and 20(a) and (b) of the Convention. He claims that the provisions of the Convention cannot serve as a legal basis for a cassation appeal under the Lithuanian Civil Procedure Code.

5.2 The author notes that the State Party does not claim that any service in the invoice of Barnasta would be unreasonable or unnecessary or that anyone could provide it more cheaply. He affirms that he has sufficiently substantiated that the inadequacy of the compensation constitutes a breach of his rights under article 5(3) of the Convention, and that his other claims are consequently also sufficiently substantiated. His claim of €3,000 for non-pecuniary damages for the delay, the nature of the domestic procedure and his moral suffering amounts to substantiation of his claim under article 3(a) of the Convention. Moreover, an important part of the domestic proceedings concerned the neighbours' refusal to provide consent as they did not "feel well by being obliged to observe [him]". He has also sufficiently substantiated his claims under article 9(1), as he cannot access the physical environment without reasonable accommodation, article 20(a) and (b), given the lack of personal mobility and assistive technologies, and article 28(1) of the Convention, as the State Party refused to adapt his apartment to his requirements or to pay him the required compensation. The State Party's arguments on admissibility actually concern the merits, which constitutes an "abuse of procedure".

5.3 The author argues that the State party is responsible for the suspension of his request for adaptation from 2006 until 2009 as it had unilaterally decided to expropriate his apartment at Sopranų Street and forced him to look for a new one and live without reasonable accommodation in the meantime. The author disputes that the delay in the procedure was due to his failure to declare his place of residence and to live there; as the apartment at Kudirkos Street was not adapted at all, he could not move there. On 6 October 2015, the police forcibly moved him to the apartment at Kudirkos Street, and he was ordered to pay for this intervention.

5.4 The author notes that the domestic courts did not accept the State Party's argument that he failed to apply for reasonable accommodation to the Kaunas Municipality. The State party required him to produce evidence of the neighbours' consent even though they were hostile to him and insulted him, in breach of his rights under article 3(a) of the Convention. The author affirms that the Convention does not authorise setting a limit of €5624 for providing reasonable accommodation. The author requests that he be granted the difference

between the amount of the invoice and the compensation granted; a three-month gross average Lithuanian salary for one year as non-pecuniary damages related to the delay in the procedure; and to cover his legal costs.

State Party's observations on the admissibility and the merits

6.1 In its observations dated 27 July 2020, the State Party reiterates that the communication is inadmissible. On the author's allegations under article 5(3) of the Convention, it notes that the Law on Social Integration of Persons with Disabilities constitutes the main domestic law on the rights of persons with disabilities. On 1 September 2016, an amendment entered into force of article 11(3) of the Law, which provides that in case of disagreement with the owners of common use objects regarding the adaptation of the latter, the municipality can decide to adapt the object regardless. According to the State Party, the author distorts the facts of the domestic proceedings, which were less about the co-owners' refusal to adapt the common premises of the house than about the award of compensation and damages. The State Party notes that the maximum amount of compensation is determined taking into account the possible housing adaptation works, the prices of equipment required and the economic situation of the country.

6.2 Regarding the author's allegations under articles 9(1), 19(a) and 20(a) and (b) of the Convention, the State Party reiterates that the Convention does not regulate the conditions for providing accommodation, and a legal requirement of declaring one's residence should be considered reasonable. The Procedure for Adaptation of Housing for Persons with Disabilities of 19 February 2019, approved by the Minister of Social Security and Labour, establishes requirements for applicants of adapted housing and determines what kind of works can be performed, among others. This procedure is being improved taking into account the proposals of non-governmental organisations. The requirement that the adapted accommodation be the actual place of residence of the person concerned does not apply if the construction is not completed or equipped. The regulation in force at the time provided for adaptation by the municipality or by the person with funding from the municipality. The author had the right to have his housing adapted, but he did not express any such wish to the Kaunas Municipality. Since 2019, housing can be adapted without regard to the order of submissions of applications. The current procedure provides that for a person with a "special permanent care need or a need for any type of wheelchair", compensation for the costs of housing adaptation may be paid to cover all or part of the difference between the value of the unsuitable housing sold and the adapted housing purchased. The costs are paid when the applicant's accommodation is included in the list of housing to be adapted in the current year and if the applicant actually and by declaration resides in the housing. Various types of mobility aids, devices and assistive technologies can be provided, including to the author.

6.3 Regarding the author's claim under article 28 of the Convention, the State Party notes that under the Law on Housing Acquisition or Lease, a person with disabilities is entitled to housing assistance in case of a "severe or moderate degree" of disability, or 40% or lower level of working capacity, and if the value of the person's property and their income do not exceed prescribed amounts. The State Party reiterates that the Housing Commission decided to adapt the author's housing at the expense of the Municipality, but that he did not agree with the conditions set. The State Party considers that it has ensured his right to choose his place of residence on an equal basis with others and facilitated his mobility. There has therefore not been a violation of the Convention.

Author's comments on the State Party's submission

7. In his comments dated 14 November 2020, the author reiterates his previous claims and, in addition to previously requested remedies, he requests €1000 in damages concerning the State Party's argument that he breached the rights of other persons with disabilities, which he qualifies as an insult and a reprisal.

State Party's additional observations

8.1 In its additional observations dated 17 March 2021, the State Party argues that in his latest comments, the author raises a new claim under article 3(a) of the Convention, and that it is unacceptable for authors to raise new claims without any limitations at any stage of the

proceedings. The State Party notes that in a decision dated 29 December 2016, the Supreme Court stated that to adapt an apartment to the requirements of a person with disabilities, the person has to file a corresponding request. However, the author did not declare his place of residence timely and did not express his wish to the municipality to adapt his apartment independently. As he did not agree to have his apartment adapted to his requirements within six months with municipal funds following the provision of proof of his neighbours' consent and of the absence of restrictions concerning the apartment, he was provided with compensation instead. According to the State Party, it would be an excessive burden on its budget if persons who refused full adaptation of their apartments afterwards received full reimbursement for their expenses to adapt their apartments to their individual requirements.

8.2 The State Party argues that there is no evidence of the neighbours' disagreement with the adaptation of the common area or their insults. The author did not raise this at the domestic level and his counsel has committed an abuse of the right to submit a communication in making these facts up. Moreover, even if the neighbours had disagreed, the municipality could have decided to adapt common areas without their consent. The State Party disputes that the author's request to suspend the examination of his adaptation request between 2006 and 2009 resulted from the authorities' intimidation against persons with disabilities. To the contrary, he was adequately compensated for the restitution of the apartment at Sopranų Street. The courts established that there was no evidence that this apartment was adapted to his requirements. Further, the equipment there could be easily moved to his new apartment.

8.3 The State Party considers that the author's request for pecuniary and non-pecuniary compensation is unsubstantiated and excessive, as he already received compensation; that his request for €1000 for alleged insults is incomprehensible as the authorities never insulted him; and his request to pay €13,000 is excessive taking into account the "poor quality of the representation" and controversial, taking into account the author's material situation. Moreover, the domestic authorities are better placed to decide the issue of compensation.

Author's additional comments

9.1 In his comments dated 28 July 2021, the author argues that the Optional Protocol does not set a time limit for making claims under the Convention and that the State Party has had a reasonable opportunity to reply to his claim under article 3(a) of the Convention. He reaffirms that the Kaunas Regional Court analysed the applicability of articles 19(a) and 28(1) and that he invoked articles 9(1) and 20(a) and (b) of the Convention in substance.

9.2 The author argues that the State Party falsely claims that he was fully compensated for the confiscation of his apartment at Sopranų Street, as it was 52.36 square meters, but he was compensated for only 42.76 square meters and not at all for the garage, a storage space and his investments, including the fact that he widened two doors and removed thresholds. According to the author, his expulsion from a partially adapted apartment to a non-adapted apartment without full compensation or eviction order constitutes torture. According to the author, the State Party justifies the neighbours' discrimination against him, and the lack of adaptation shows that his apartment cannot be adapted without the signatures. The author was unable to accept the draft settlement agreement of 2 June 2017 as it contained no timeframe or budget. The author argues that Section 55 of Order No. A1-460 of 10 August 2015 sets a ceiling of €8,740 for "adaptation equipment" and €7,030 for adapting an apartment, i.e. €15,770 in total, which is more than the amount indicated in Barnasta's invoice.

9.3 According to the author, the State Party's submission of 17 March 2021 constitutes an attack on him and his counsel and a reprisal for defending the author's rights, for which he requests compensation of one monthly gross average Lithuanian salary to him and to his counsel each. The author argues that his pecuniary damages are €9,755.70 plus €2,000 to compensate his investments into the partial adaptations of his apartment at Sopranų Street. The author requests the Committee to formulate the amount of compensation due to him in concrete figures.

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 the author's claims regarding the suspension of his application for the adaptation of his apartment from 2006 until 2009 and the decision dated 29 December 2008 regarding the compensation for the expropriation of his apartment at Sopranų Street. However, the Committee notes that the Optional Protocol entered into force for the State Party on 17 September 2010 and that the author has not substantiated that said facts constituted violations that continued on or after said date. Therefore, the Committee finds these parts of the communication inadmissible under article 2(f) of the Optional Protocol.

10.3 The Committee notes the State Party's submission that the communication is inadmissible under article 2(d) of the Optional Protocol as the author did not raise the incompatibility of the regulations on housing adaptation with the Convention in the context of national proceedings. In this regard, the Committee observes that the communication largely concerns the alleged inadequacy of the compensation granted to the author in connection with the adaptation of his apartment as well as the conditions set by the authorities for said adaptation. Specifically, the Committee notes the State party's uncontested argument that a municipal Housing Adaptation Commission established on 26 April 2017 informed the author that it had decided to adapt his accommodation within six months subject to the conditions that he would provide proof of the consent by the majority of the owners of the house and of the absence of certain restrictions concerning the apartment. The Committee thus notes that reasonable accommodation was offered to the author in the form of adaptation of his apartment by the municipal authorities. Regarding the author's claim that said accommodation was unreasonable as he could not fulfil the applicable conditions and that the draft settlement agreement did not contain a budget or timeframe, the Kaunas Regional Court noted in its decision of 7 November 2017 that the author disagreed with the decision by the Housing Adaptation Commission, but that there are no indications on file that he complained, in substance, to the domestic courts that these conditions and circumstances were contrary to his rights under the Convention. Further, the decision of the Kaunas Regional Court of 7 November 2017 mentions that the draft agreement included a six-month timeframe. Moreover, regarding the author's claims regarding his eviction and the calculation of interest, the Committee notes the absence of any documents on file concerning the execution of the eviction, as well as of any indications that he argued, in substance, that the start date of the interest constituted a violation of his rights under the Convention, or that he was subjected to torture. The Committee thus considers that the author has not exhausted domestic remedies in relation to these claims under articles 3(a), 5(3), 9(1)(a), 19(a), 20(a) and (b) and 28(1) of the Convention and finds them inadmissible under article 2(d) of the Optional Protocol.

10.4 The Committee notes the State party's submission that the communication is insufficiently substantiated under article 2(e) of the Optional Protocol. In this regard, the Committee notes that the author claims a violation of his rights under the Convention regarding the delay in adapting his apartment. However, the Committee notes that the Kaunas Regional Court determined that said delay constituted a breach of his rights under the Convention and that it awarded him compensation for pecuniary and non-pecuniary damages. To the extent that the author maintains these claims in his communication, the Committee considers that he has insufficiently substantiated that the violation of his rights has not been effectively remedied by means the compensation granted to him. The Committee further notes the author's allegations that the State party's submissions in the present communication constitute reprisals against him and his counsel. However, the Committee considers that the author has not provided any evidence to show that the State party's submissions constitute intimidation or reprisals against them. The Committee therefore considers that these parts of the communication are inadmissible under article 2(e) of the Optional Protocol as insufficiently substantiated.

C. Conclusion

11. The Committee therefore decides:

(a) That the communication is inadmissible under article 2 (d), (e) and (f) of the Optional Protocol;

(b) That the present decision shall be communicated to the State Party and to the author.
