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**Committee on the Rights of Persons with Disabilities****Follow-up progress report on individual communications\*****I. Introduction**

1. The present report was prepared pursuant to article 5 of the Optional Protocol to the Convention, which states that the Committee will hold closed meetings when examining communications under the Optional Protocol and, after examining a communication, will forward its suggestions and recommendations, if any, to the State party concerned and to the petitioner. The report is also prepared in line with rule 76 (7) of the rules of procedure of the Committee, which stipulates that the special rapporteur or working group for follow-up to Views will regularly report to the Committee on follow-up activities, to ascertain the measures to be taken by States parties to give effect to the Committee's Views.

2. The present report sets out the information received by the Special Rapporteur for follow-up to Views between the thirtieth and thirty-second sessions pursuant to the Committee's rules of procedure, and her recommendations to the Committee. The assessment criteria were as follows:

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*Assessment criteria*

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*Compliance*

**A** Measures taken are largely satisfactory

*Partial compliance*

**B** Substantive measure(s) taken, but additional information and/or action is required

*Non-compliance*

**C** Reply received but measures taken do not implement the Views/recommendations

*No reply*

**D** No reply to all or parts of recommendations following reminder(s)

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\* Adopted by the Committee at its thirty-second session (3–21 March 2025).

## II. Communications

### A. *Noble v. Australia* (CRPD/C/16/D/7/2012)

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|---------------------------------|---|
| Date of adoption of Views:      | 2 September 2016  |
| Subject matter:                 | Right to enjoy legal capacity on an equal basis with others                         |
| Articles violated:              | Articles 5 (1) and (2), 12 (2) and (3), 13 (1), 14 (1) (b) and 15 of the Convention |
| Previous follow-up information: | <a href="#">CRPD/C/19/4</a>   |

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#### 1. Remedy

3. Concerning the author, the State party is under an obligation:

(a) To provide him with an effective remedy, including reimbursement of any legal costs incurred by him, together with compensation;

(b) To revoke immediately the 10 conditions of the author's release order, replacing them with all necessary support measures for his inclusion in the community;

(c) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

4. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In this regard, the Committee refers to the recommendations contained in its concluding observations<sup>1</sup> and requires the State party:

(a) To adopt the necessary amendments of the Mentally Impaired Defendants Act (Western Australia) and all equivalent or related federal and state legislation, in close consultation with persons with disabilities and their representative organizations, ensuring its compliance with the principles of the Convention and with the Committee's guidelines on the right to liberty and security of persons with disabilities;

(b) To ensure that adequate support and accommodation measures are provided to persons with mental and intellectual disabilities to enable them to exercise their legal capacity before the courts whenever necessary;

(c) To ensure that appropriate and regular training on the scope of the Convention and its Optional Protocol, including on the exercise of legal capacity by persons with intellectual and mental disabilities, is provided to staff of the Review Board, members of the Law Reform Commission and Parliament, judicial officers and staff involved in facilitating the work of the judiciary.

#### 2. Previous follow-up decision

5. In the follow-up progress report on individual communications adopted at its nineteenth session, the Committee noted with satisfaction the State party's commitment to support the author and recalled its general comment No. 1 (2014) on equal recognition before the law. It decided to request the State party to specify which measures of support had been adopted for the author with a view to enable him to live independently in the community, and to provide him with adequate compensation measures.

#### 3. Author's previous comments

6. On 19 July 2017, the author submitted that he did not wish to provide further comments and relied on his previous submissions.

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<sup>1</sup> [CRPD/C/AUS/CO/1](#), para. 32.

#### 4. State party's observations

7. In its observations dated 8 May 2024, the State party recalls that, on 10 January 2012, the author was released from custody on a conditional release order, from which he was discharged on 6 October 2017. He has not since had any further contact with the Department of Justice of Western Australia.

#### 5. Decision of the Committee

8. The Committee notes the State party's commitment to supporting the author's inclusion in the community but regrets the lack of information provided on measures taken in this regard and to provide him with compensation. The Committee notes the information previously provided by the State party regarding the intention of the government of Western Australia to amend the Western Australian Criminal Law (Mentally Impaired Accused) Act 1996 but regrets the lack of information on measures taken to implement the general recommendations. The Committee notes the State party's publication of its Views. In view thereof, the Committee decides to discontinue the follow-up procedure, with an assessment of "B" (partial compliance).

### B. *Leo v. Australia (CRPD/C/22/D/17/2013) and Doolan v. Australia (CRPD/C/22/D/18/2013)*

|                                 |   |
|---------------------------------|---|
| Date of adoption of Views:      | 30 August 2019  |
| Subject matter:                 | Institutionalization of person with intellectual and psychosocial impairment; right to enjoy legal capacity on an equal basis with others |
| Articles violated:              | Articles 5 and 12–15 of the Convention  |
| Previous follow-up information: | None  |

#### 1. Remedy

9. Concerning the authors, the State party is under an obligation:

- (a) To provide them with an effective remedy, including reimbursement of any legal costs incurred by them and compensation;
- (b) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

10. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, and considering the far-ranging impact of the violations found in the cases, the Committee recalls in particular the recommendations on liberty and security of the person contained in its concluding observations on the initial report of Australia<sup>2</sup> and requests the State party:

- (a) To amend part II.A of the Northern Territory Criminal Code and all equivalent or related federal and state legislation, in close consultation with persons with disabilities and their representative organizations, in such a way as to comply with the principles of the Convention and with the Committee's guidelines on the right to liberty and security of persons with disabilities;
- (b) To ensure without further delay that adequate support and accommodation measures are provided to persons with intellectual and psychosocial disabilities to enable them to exercise their legal capacity before the courts whenever necessary;
- (c) To protect the right to live independently and be included in the community by taking steps, to the maximum of its available resources, to create community residences in order to replace any institutionalized settings with independent living support services;

<sup>2</sup> Ibid.

(d) To ensure that appropriate and regular training on the scope of the Convention and its Optional Protocol, including on the exercise of legal capacity and access to justice, is provided to staff working with persons with intellectual and psychosocial disabilities, members of the Law Reform Commission and Parliament, judicial officers and staff involved in facilitating the work of the judiciary, and avoid using high-security institutions for the confinement of persons with intellectual and psychosocial disabilities.

## **2. State party's response**

11. In its observations dated 24 August 2020 and 27 March 2024, the State party notes that it will publish the Committee's Views. It regrets that the authors were detained under Part II.A of the Northern Territory Criminal Code Act, which it is seeking to amend, and states that it is committed to supporting the authors to live independently in the community. The State party reiterates that Mr. Leo and Mr. Doolan transitioned to community placement on 7 November 2016 and 22 May 2017, respectively, and that they receive continual daily support. Mr. Leo has been living under a non-custodial supervision order, which is periodically reviewed.

12. The State party notes that a National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment has been developed and provides guidance on the tailored, inclusive and recovery-oriented treatment of persons with cognitive or mental health impairments. According to the National Statement of Principles, decision-making should restrict the rights of persons with cognitive or mental impairments as little as possible, individual requirements should be taken into account to support community reintegration, and the needs of particular groups, including Aboriginal and Torres Strait Islander peoples, should inform policy and practice. The Government of Australia will review the National Statement of Principles in five years. The government of the Northern Territory is looking to replace its Mental Health Act and review its Disability Services Act and is developing an Aboriginal Justice Agreement. The Department of Health of the Northern Territory is investigating the interface of mental health legislation with Part II.A of the Northern Territory Criminal Code.

13. The State party submits that the Committee has not specified what support should be provided to a person incapable of understanding the nature of a criminal trial. The State party reiterates its concern about the Committee's approach to capacity, which, unlike the right to recognition before the law, is a spectrum. The State party reiterates that the authors' claim under article 5 of the Convention is inadmissible and that it has not breached the Convention. Therefore, it has not implemented all the Committee's recommendations. The State party observes that the authors received legal aid for the domestic proceedings.

## **3. Author's comments**

14. Despite a reminder sent on 13 November 2024, the authors have not commented on the State party's observations.

## **4. Decision of the Committee**

15. The Committee regrets the lack of information on measures taken to reimburse the authors for any legal costs and to provide them with compensation. The Committee notes that the State party will publish its Views, that the government of the Northern Territory is seeking to amend Part II.A of the Northern Territory Criminal Code Act and that a National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment has been developed, but it regrets the lack of further information on the implementation of the general recommendations. In view thereof, the Committee decides to discontinue the follow-up procedure, with an assessment of "B" (partial compliance).

**C. *Sherlock v. Australia* (CRPD/C/24/D/20/2014)**


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|                                 |  |
|---------------------------------|--|
| Date of adoption of Views:      | 19 March 2021  |
| Subject matter:                 | Disability-based discrimination; access to a work visa |
| Articles violated:              | 4, 5 and 18 of the Convention                          |
| Previous follow-up information: | None   |

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**1. Remedy**

16. Concerning the author, the State party is under an obligation to provide her with an effective remedy, including reimbursement of any legal costs incurred by her and compensation.

17. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In this regard, the Committee requires the State party to ensure that barriers to the enjoyment by persons with disabilities of the right to utilize the immigration proceedings on an equal basis with others are removed under national legislation. As the State party's law does not prohibit any private arrangements between an employee and his or her employer concerning the payment or reimbursement of healthcare costs, the Committee recommends that such arrangements be part of the visa criteria and thus be taken into consideration.

**2. State party's response**

18. In its observations dated 18 February 2022, the State party informs the Committee that it will publish the Committee's Views. The State party has considered the Committee's Views in good faith but disagrees with the Committee's reasoning and conclusions. Therefore, the State party does not consider it appropriate to implement the recommendations. The State party contests the Committee's reference to the statement by the Committee on Economic, Social and Cultural Rights, as the author invoked civil and political rights. The migration health requirement is aimed at achieving a legitimate purpose, is based on reasonable and objective criteria and is proportionate. The authorities did not reject the author's visa application; rather, her employer instructed its migration agent to withdraw her application. Moreover, nothing prevented her from coming to a private agreement with her employer to reimburse it for any healthcare costs that it had initially borne. The State party does not automatically disqualify persons with disabilities from obtaining a visa. The State party considers that the Committee has insufficiently engaged with these observations.

**3. Author's comments**

19. Despite a reminder sent on 31 October 2024, the author has not commented on the State party's observations, which were transmitted to her on 3 March 2023.

**4. Decision of the Committee**

20. The Committee regrets the lack of any measures taken to implement its individual or general recommendations. In view thereof, the Committee decides to discontinue the follow-up procedure, with an assessment of "C" (non-compliance).

**D. *Bacher v. Austria* (CRPD/C/19/D/26/2014)**

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|---------------------------------|--|
| Date of adoption of Views:      | 16 February 2018   |
| Subject matter:                 | Responsibility of the State party's authorities to promote accessibility for a person with disabilities in the context of a private dispute between neighbours |
| Articles violated:              | Article 9, read alone and in conjunction with article 3 of the Convention  |
| Previous follow-up information: | <a href="#">CRPD/C/21/3</a> and <a href="#">CRPD/C/28/3</a>  |

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**1. Remedy**

21. Concerning Mr. Bacher, the State party is under an obligation to provide him with an effective remedy, in particular:

(a) To facilitate a solution to the conflict related to the use of the path, which is the only means of gaining access to the Bacher family home, taking into account the special needs of Mr. Bacher as a person with disabilities and the criteria established in the Committee's Views;

(b) To award Mr. Bacher financial compensation for the violations suffered;

(c) To reimburse the author for the legal costs reasonably incurred in domestic proceedings and in the processing of the communication.

22. The State party is also under an obligation to take measures to prevent similar violations in the future. In this perspective, the State party shall:

(a) To ensure continuous capacity-building of the local authorities and courts responsible for monitoring implementation of accessibility standards;

(b) To develop an effective monitoring framework and set up efficient monitoring bodies with adequate capacity and appropriate mandates to make sure that accessibility plans, strategies and standardization are implemented and enforced;

(c) To translate the Views of the Committee into the official language of the State party, to publish them and to distribute them widely, in an accessible format, so that they reach all sectors of the population.

**2. Previous follow-up decision**

23. In the follow-up progress report on individual communications adopted at its twenty-eighth session, the Committee decided to keep the follow-up dialogue open and to request further information from the State party.

**3. State party's response**

24. In its observations dated 24 June 2024, the State party notes that, on 20 September 2023, the Supreme Court ruled that the Convention must be considered in civil lawsuits. The Ombudsperson and the Commissioner for Anti-Discrimination of Tyrol have attempted to facilitate the finding of a solution for Mr. Bacher. The State party reiterates that the construction of the apartment complex has created barrier-free access without the need to use the footpath. Substantially more funding has been available than the family has utilized. The family received €6,000 as partial compensation for the purchase of the parking space and legal aid. Mr. Bacher continues to receive disability-related funds.

**4. Author's comments**

25. In her comments dated 11 May 2023, 30 October 2023, 26 February 2024, 25 April 2024, 15 July 2024 and 28 October 2024, the author reiterates that the parking space is not a solution. Mr. Bacher has been discriminated against, and the family has suffered from stress,

since the demolition of the roof over the footpath in 2004. The author describes as disrespectful remarks made by the Mayor of Vomp to the effect that Mr. Bacher should move to “handicap accommodation”, that the family should sell the house or that they should make concessions to their neighbours.

26. The author notes that the Ombudsperson for Equal Treatment Issues for Persons with Disabilities and the chairpersons of the independent monitoring committees of the federal Government and Tyrol have noted a lack of regulations on individual communications to the treaty bodies and that much correspondence has bypassed the family. They argue that “only a few” of the Committee’s recommendations have been implemented. It is unknown whether mandatory training exists that implements the Committee’s recommendations. According to the Ombudsperson, financial compensation has been “inadequately addressed”, despite the family’s costs, and it is “virtually impossible” to consistently implement the Committee’s recommendations because of a lack of willingness and interdepartmental coordination.

## 5. Decision of the Committee

27. The Committee notes that the parties disagree on some of the facts and the degree to which the development of the apartment complex and the parking space has provided an adequate alternative to using the footpath. The Committee regrets that the State party has not awarded Mr. Bacher compensation for the violations that he suffered, although it notes that the family received partial compensation for the purchase of the parking space and legal aid and that further financial support may be available. The Committee notes that the State party has translated and published its Views and has provided information on training but not on its recommendations concerning effective monitoring. Lastly, the Committee considers that the alleged remarks by the Mayor of Vomp are incompatible with the principles of the Convention. In view thereof, the Committee decides to discontinue the follow-up procedure, with an assessment of “B” (partial compliance).

## E. *V.F.C. v. Spain* (CRPD/C/21/D/34/2015)

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|                                 |   |
|---------------------------------|---|
| Date of adoption of Views:      | 2 April 2019  |
| Subject matter:                 | Right to non-discrimination in the maintenance or continuance of employment (assignment to modified duty)   |
| Articles violated:              | Article 27 (a), (b), (e), (g), (i) and (k), read alone and in conjunction with article 3 (a)–(e); article 4 (1) (a), (b) and (d) and (5); and article 5 (1)–(3) of the Convention |
| Previous follow-up information: | <a href="#">CRPD/C/23/3</a>   |

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### 1. Remedy

28. Concerning the author, the State party is under an obligation:

(a) To afford him the right to compensation for any legal costs incurred in filing the communication;

(b) To take appropriate measures to ensure that the author is given the opportunity to undergo an assessment of fitness for alternative duties for the purpose of evaluating his potential to undertake modified duties or other complementary activities, including any reasonable accommodation that may be required.

29. In general, the State party is under an obligation to take measures to prevent similar violations in the future, including by:

(a) Taking all necessary measures to align the modified-duty regulations of the Barcelona municipal police (ordinance) and their application with the principles enshrined in

the Convention and the recommendations contained in the Committee's Views to ensure that assignment to modified duty is not restricted only to persons with a partial disability;

(b) Similarly harmonizing the variety of local and regional regulations governing the assignment of public servants to modified duty in accordance with the principles enshrined in the Convention and the recommendations contained in the Committee's Views.

## **2. Previous follow-up decision**

30. In the follow-up progress report on individual communications adopted at its twenty-third session, the Committee requested further information from the State party, including on compensation paid to the author for legal costs, measures taken to assess his fitness for alternative duties and measures taken to align ordinances and regulations with the principles enshrined in the Convention and the recommendations contained in the Committee's Views.

## **3. State party's response**

31. In its observations dated 28 October 2021, the State party submits that, on 20 November 2020, Barcelona Administrative Court No. 4 partially upheld the author's appeal to protect his fundamental rights in response to the rejection of his application for the implementation of the Committee's Views. The Court declared that, by refusing to conduct an assessment of fitness for alternative duties, Barcelona City Council had infringed his rights to equality and effective judicial protection. It ordered the Council to submit him to such an assessment and to compensate him for the €1,210 in costs that he had incurred in submitting the communication, irrespective of the need to recognize his ability to undertake modified duty, if such an ability is established, for all legal, administrative and financial purposes, with retroactive effect from the time of the rejection of his application for a transfer. Lastly, the Court held that the limitation in article 7 (2) of the modified-duty regulations of the Barcelona municipal police of 15 February 2002 does not comply with the right of officers who are permanently and totally incapacitated to be transferred to modified duties, as established under Law No. 19/91 on the Local Police, and is contrary to the principle of equality and non-discrimination on grounds of disability in the maintenance of employment.

## **4. Author's comments**

32. In his comments dated 17 July 2024, the author claims that the State party has not implemented any of the Committee's recommendations, in the absence of any compensation, assessment of his functional capacities and regulatory changes. On 6 July 2021, the High Court of Justice of Catalonia upheld the lower-court judgment cited by the State party and the author's cross-appeal for moral damages, amounting to €6,251. The Supreme Court declared the judgment final on 23 March 2023. On 20 December 2023, Barcelona City Council summoned the author to an alternative activity medical tribunal, which determined that he was "suitable" for modified duties in the Barcelona municipal police, without providing further specifications. Therefore, the report does not amount to an alternative functional assessment or reasonable accommodation.

33. On 29 December 2023, the author requested Barcelona City Council to pay him €554,634.14 and to process his application for an alternative post by means of a functional assessment. Despite talks to reach a settlement, those requests have not yet been granted.

## **5. Decision of the Committee**

34. The Committee notes that Barcelona Administrative Court No. 4 ruled that, by refusing to conduct an assessment of fitness for alternative duties for the purposes of access to modified duties, Barcelona City Council had violated the author's right to equality, and ordered it to submit him to such an assessment. However, the Committee regrets that the assessment has still not been conducted and that no reasonable accommodation has been provided to the author. Therefore, the Committee decides to keep the follow-up dialogue open, pending the results of the author's negotiations with Barcelona City Council, and to request further information from the State party.

**F. *J.M. v. Spain* (CRPD/C/23/D/37/2016)**


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|                                 |   |
|---------------------------------|---|
| Date of adoption of Views:      | 21 August 2020  |
| Subject matter:                 | Right to non-discrimination in the maintenance or continuance of employment (assignment to modified duty)   |
| Articles violated:              | Article 27 (a), (b), (e), (g), (i) and (k), read alone and in conjunction with article 3 (a)–(e); article 4 (1) (a), (b) and (d) and (5); and article 5 (1)–(3) of the Convention |
| Previous follow-up information: | <a href="#">CRPD/C/28/3</a>   |

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**1. Remedy**

35. Concerning the author, the State party is under an obligation:

(a) To afford him the right to adequate compensation, including any legal costs incurred in filing the communication;

(b) To take appropriate measures to ensure that the author is given the opportunity to undergo an assessment of fitness for alternative duties for the purpose of evaluating his potential to undertake modified duties or other complementary activities, including any reasonable accommodation that may be required.

36. In general, the State party is under an obligation to take measures to prevent similar violations in the future, including by:

(a) Taking all necessary measures to align the modified-duty regulations of the Figueras municipal police (ordinance) and their application with the principles enshrined in the Convention and the recommendations contained in the Committee's Views, ensuring that assignment to modified duty is not restricted only to persons with a partial disability;

(b) Similarly harmonizing the variety of local and regional regulations governing the assignment of public officials to modified duty in accordance with the principles enshrined in the Convention and the recommendations contained in the Committee's Views;

(c) Publishing the Committee's Views and circulating them widely in accessible formats so that they are available to all sectors of the population.

**2. Previous follow-up decision**

37. In the follow-up progress report on individual communications adopted at its twenty-eighth session, the Committee decided to keep the follow-up dialogue open and to request further information from the State party and a meeting to discuss the prompt implementation of its Views.

**3. State party's response**

38. In its observations dated 1 February 2024, the State party submits that the author initiated special proceedings to protect his fundamental rights in response to the refusal by Figueras City Council of his request to appear before and be evaluated by an alternative activity tribunal. On 25 February 2022, Administrative Court No. 3 of Girona upheld his appeal. On 23 December 2022, the High Court of Justice of Catalonia confirmed his right to appear before an alternative activity tribunal. Figueras City Council indicated that it would enforce the judgment as soon as it had been notified of its finality. The modified-duty regulations of the Figueras municipal police, which are applicable to persons with a recognized degree of permanent disability, comply with the Committee's general recommendations. The State party has published the Committee's Views online.

#### 4. Author's comments

39. In his comments dated 12 September 2024, the author notes that, by order of 8 January 2024, the judgment of 23 December 2022 of the High Court of Justice of Catalonia became final. On 16 January 2024, Administrative Court No. 3 of Girona decided to return the administrative file to the respondent body for implementation of the judgment. To date, despite this, Figueras City Council has not implemented any part of the judgment and has thus not put an end to the discrimination against the author. The author believes that obstruction by the administration is to be expected, and he will be taking further action. The modified-duty regulations of the Figueras municipal police do not contain any retroactive clauses for the benefit of persons with disabilities. The author calls for an investigation into the situation of civil servants with disabilities in Catalonia and for the Special Rapporteur on the rights of persons with disabilities to be informed of the findings.

#### 5. Decision of the Committee

40. The Committee notes that the High Court of Justice confirmed the author's right to be assessed by an alternative activity tribunal. However, the Committee notes that Figueras City Council has not yet implemented the judgment, despite its finality. The Committee notes that the modified-duty regulations of the Figueras municipal police do not contain any retroactive clauses for persons with disabilities such as the author. The Committee decides to keep the follow-up dialogue open pending the execution of the decision of the High Court of Justice and to request further information from the State party.

### G. *Domina and Bendtsen v. Denmark* (CRPD/C/20/D/39/2017)

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|                                 |   |
|---------------------------------|---|
| Date of adoption of Views:      | 31 August 2018  |
| Subject matter:                 | Family reunification  |
| Articles violated:              | Article 5 (1) and (2) read alone and in conjunction with article 23 (1) of the Convention |
| Previous follow-up information: | None  |

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#### 1. Remedy

41. Concerning the authors, the State party is under an obligation:

(a) To provide them with an effective remedy, including compensation for any legal costs incurred in filing the communication;

(b) To refrain from expelling Ms. Domina to Ukraine and ensure that the authors' right to family life in the State party is respected;

(c) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

42. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party to ensure that barriers to the enjoyment by persons with disabilities of the right to family life on an equal basis with others are removed under domestic legislation.

#### 2. State party's response

43. In its observations dated 25 March 2019, the State party notes that, on 3 October 2018, the Immigration Appeals Board reopened the authors' application for family reunification in the light of the Committee's Views. On 19 November 2018, the Immigration Appeals Board reversed the decision of the Danish Immigration Service of 29 August 2013 to deny their request for family reunification, as it had now been more than three years since Mr. Bendtsen had received social assistance. On 5 March 2019 and 21 July 2022, the Immigration Service granted Ms. Domina a temporary and a permanent residence permit, respectively. On 7 May 2019, the Department of Civil Affairs granted the authors legal aid amounting to 28,518.75

DKK excluding VAT under the Act on Legal Aid for Submitting and Pursuing Complaints before International Complaints Bodies under Human Rights Conventions.

44. The State party's authorities have published, disseminated and discussed the Committee's Views. The State party considers that it has implemented the individual and general recommendations. Considering the prevalence of English-language skills in Denmark, the State party has not translated the Views.

### 3. Authors' comments

45. Despite a reminder sent on 31 October 2024, the authors have not commented on the State party's observations sent to them on 1 November 2023.

### 4. Decision of the Committee

46. The Committee notes that the Danish Immigration Service has granted Ms. Domina permanent residence and has thus respected the authors' right to family life in the State party, and that it has compensated them for legal costs. The Committee notes that the State party has disseminated and discussed its Views. In view thereof, the Committee decides to discontinue the follow-up procedure, with an assessment of "A" (satisfactory).

## H. *Calleja Loma and Calleja Lucas v. Spain* (CRPD/C/23/D/41/2017)

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|                                 |  |
|---------------------------------|--|
| Date of adoption of Views:      | 28 August 2020   |
| Subject matter:                 | Right of a child with Down syndrome to inclusive education                                   |
| Articles violated:              | Articles 7, 15, 17, 23 and 24 read alone and in conjunction with article 4 of the Convention |
| Previous follow-up information: | <a href="#">CRPD/C/28/3</a>  |

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### 1. Remedy

47. Concerning the authors, the State party is under an obligation:

(a) To provide them with an effective remedy, including reimbursement of any legal costs that they have incurred, together with compensation, taking into account the emotional and psychological harm that they have suffered as a consequence of the treatment that they received and the way in which their case was handled by the authorities;

(b) To ensure that Mr. Calleja Loma is admitted to a truly inclusive vocational training programme, in consultation with him and with his parents;

(c) To conduct an effective investigation into the allegations of abuse and discrimination reported by the authors and ensure accountability at all levels;

(d) To publicly recognize, in accordance with the Committee's Views, the violation of the rights of Mr. Calleja Loma, a child, to inclusive education and to a life free from violence and discrimination, as well as the violation of the rights of his parents, who were wrongly charged with the criminal offence of neglect, which had psychological and financial consequences;

(e) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

48. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In particular, the Committee requests the State party, in close consultation with persons with disabilities and the organizations that represent them:

(a) To expedite legislative reform, in line with the Convention, to fully eliminate the medical model of disability and clearly define the full inclusion of all children with disabilities and its specific objectives at each level of education;

(b) To take measures to ensure that inclusive education is considered as a right, and grant all students with disabilities, regardless of their personal characteristics, the right of access to inclusive learning opportunities in the mainstream education system, with access to support services as required;

(c) To formulate a comprehensive, inclusive education policy with strategies for promoting a culture of inclusion in mainstream education, including individual rights-based assessments of educational needs and necessary accommodation, support for teachers, respect for diversity in ensuring the rights to equality and non-discrimination, and the full and effective participation of persons with disabilities in society;

(d) To eliminate any educational segregation of students with disabilities in both special education schools and specialized units within mainstream schools;

(e) To ensure that the parents of students with disabilities cannot be prosecuted for neglect if they demand that their children's right to inclusive education on an equal basis with others be respected.

## **2. Previous follow-up decision**

49. In the follow-up progress report on individual communications adopted at its twenty-eighth session, the Committee decided to keep the follow-up dialogue open and to request further information from the State party and a meeting to discuss the prompt implementation of its Views.

## **3. Authors' additional information**

50. In their comments dated 30 January 2024, the authors note that, despite the Supreme Court's judgment of 29 November 2023 holding that the Committee's Views are binding and enforceable against the State party, the latter has not yet implemented the Committee's recommendations.

## **4. State party's response**

51. In its observations dated 6 February 2024, the State party reports that, on 17 November 2022, the National High Court dismissed the authors' appeal, filed under a special procedure for the protection of fundamental rights, in response to the rejection of their claim for State responsibility based on the Committee's Views. However, the Supreme Court upheld the authors' cassation appeal, annulled the decision of the National High Court and remanded the case to the National High Court to analyse whether the requirements for compensation had been met.

52. The State party refers to regulatory reforms adopted in the light of the Committee's Views, the Spanish Strategy on Disability 2022–2030, a territorial cooperation working group on inclusive education and a cooperation programme on inclusive education aimed at optimizing and increasing resources for pupils in their full diversity. According to statistics covering 2023, it is not the case that 90 per cent of students with disabilities do not enjoy inclusive education. In the 2021/22 academic year, 82.9 per cent of students with special educational needs due to disability were studying in mainstream schools.

53. The State party notes that, on 29 December 2020, the Constitutional Court concluded that a dual system of general and special education may be maintained. Lastly, the State party indicates that it has published the Committee's Views online.

## **5. Authors' comments**

54. In their comments dated 2 April 2024, the authors indicate that they are awaiting the judgment of the National High Court. As Mr. Calleja Loma studied in a special class, where all students have disabilities, he did not receive inclusive education. Statistics show that most students with disabilities are enrolled in special classes in mainstream schools, which are not inclusive; that a decision not to place one's child in a special school may result in threats of criminal charges of abandonment of the family; and that the State party continues to violate the right to inclusive education systematically. The education administration continues to build special schools and establish special classes in regular schools. The State party has not

complied with the Committee's recommendations, as no effective remedies have been obtained, Mr. Calleja Loma has not been included in an inclusive vocational training programme, responsibilities have not been clarified at all levels, and the Views have not been widely distributed.

## 6. Decision of the Committee

55. The Committee notes the authors' assertion that the State party has not implemented its recommendations and that proceedings remain pending before the National High Court to determine eligibility for compensation. The Committee notes that Mr. Calleja Loma attended a special class, where all students have disabilities, and therefore did not receive inclusive education. The Committee regrets the lack of detailed and specific information on the results achieved in advancing inclusive education at all levels and on the implementation of the other recommendations. The Committee decides to keep the follow-up dialogue open pending the outcome of the domestic proceedings and to request further information from the State party, including on measures taken to allow Mr. Calleja Loma to pursue inclusive vocational training, in consultation with him and his parents.

## I. *S.K. v. Finland* (CRPD/C/26/D/46/2018)

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|                                 |  |
|---------------------------------|--|
| Date of adoption of Views:      | 24 March 2022  |
| Subject matter:                 | Personal assistance  |
| Articles violated:              | Article 19 (b), and article 5 (1) and (2) read alone and in conjunction with article 19, of the Convention |
| Previous follow-up information: | <a href="#">CRPD/C/30/3</a>  |

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### 1. Remedy

56. Concerning the author, the State party is under an obligation:

(a) To provide him with an effective remedy, including by reconsidering his application for personal assistance to ensure that he can exercise his right to live independently, in the light of the Committee's Views;

(b) To provide adequate compensation to the author for the costs incurred in filing the communication;

(c) To publish the Committee's Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

57. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party to ensure that its legislation on personal assistance and the manner in which it is applied by administrative institutions and domestic courts is consistent with the State party's obligations to ensure that legislation does not have the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of any right by persons with intellectual disabilities on an equal basis with persons with other types of disabilities when seeking access to personal assistance.

58. In particular, the Committee recommends that the State party amend the Disability Services Act to ensure that the resources criterion, under which the beneficiary is required to have the ability to determine the content of the required assistance and the modalities for providing it, is not an obstacle to independent living for persons who require support in decision-making.

### 2. Previous follow-up decision

59. In the follow-up progress report on individual communications adopted at its thirtieth session, the Committee decided to keep the follow-up dialogue open and to request further information from the State party.

### **3. State party's response**

60. In its observations dated 2 July 2024, the State party notes that the author's care plan has not yet been completed, partly because cooperation with his guardian, whose acceptance is required to provide services, has not progressed. On 24 November 2023, the Western Uusimaa Well-being Services County granted the author day-care services thrice weekly and 30 hours of personal assistance monthly until 31 December 2028. However, he has not used the day-care services because he may not take his personal assistant with him. Unit-style housing was considered an option for him. Assisted living in one's own home requires an ability to control the use of different services at different times. According to preliminary assessments, the author is unable to do so.

61. On 1 March 2023, the State party's Parliament adopted a new Disability Services Act (No. 675/2023). Its entry into force was postponed until 1 January 2025 to allow for the submission of a proposal on the scope of its application, including a human rights impact assessment. The proposal refers to articles 12, 19, 20, 24 and 26 to 28 of the Convention and to the Committee's Views. Section 9 of the Act provides for amendments to legislation on disability services. The State party notes that the Act safeguards the right of persons with disabilities to participation even if they cannot form and express their own will regarding the content of the required assistance independently or with support or if personal assistance does not suit them. The Act safeguards supported decision-making.

### **4. Author's comments**

62. In his comments dated 10 and 16 September 2024, the author argues that the decision of the Western Uusimaa Well-being Services County of 24 November 2023 is inhuman. On 23 April 2024, the County Board rejected his appeal. On 31 May 2024, he appealed to the Administrative Court of Helsinki. A case filed by him on 17 July 2024 with the National Non-Discrimination and Equality Tribunal remains pending. On 3 September 2024, the Non-Discrimination Ombudsman informed him that it had decided not to refer his complaint to the Tribunal.

63. The author disputes that his guardian is responsible for the delays in obtaining a new decision on personal assistance. No personal assistance services enabling him to live in his apartment have been offered to him. The day-care services offered are inadequate, as they exclude personal assistance. Referring to expert opinions, the author disputes that unit-style housing suits his requirements. A safety and security provider can meet his requirements. He argues that the resources criterion has largely remained the same in the new Disability Services Act.

### **5. State party's additional response**

64. In its additional observations dated 15 February 2025, the State party reiterates that a new application for personal assistance was necessary as the authorities required updated information. In the State party's understanding, the Committee did not require it to grant the author's request for personal assistance exactly as he had requested. His municipality has cooperated with him as much as possible. However, his guardian will only accept personal assistance enabling him to live independently in his home, even though the welfare services consider this is not in his best interests and that he is incapable of managing such a service package. The National Non-Discrimination and Equality Tribunal has found his application inadmissible. On 30 August 2024, the author's client care plan was completed. His need for services will be assessed continuously in the future.

### **6. Decision of the Committee**

65. The Committee regrets that, according to the information before it, three years after the adoption of its Views, a new decision enabling the author to live independently has not been issued, and that no compensation has been provided to him. The Committee notes the dissemination and translation of its Views and the promotion of independent living in the Disability Services Act but regrets the lack of further information on measures taken to ensure that the resources criterion is not an obstacle for persons with disabilities requiring support

for decision-making. In view thereof, the Committee decides to keep the follow-up dialogue open and to request further information from the author.

## J. *J.M.V.A. v. Spain* (CRPD/C/29/D/47/2018)

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|                                 |  |
|---------------------------------|--|
| Date of adoption of Views:      | 25 August 2023   |
| Subject matter:                 | Right to non-discrimination in the maintenance or continuance of employment (assignment to modified duty)  |
| Articles violated:              | Article 27 (1) (a), (b), (e), (g), (i) and (k), read alone and in conjunction with article 3 (a)–(e), article 4 (1) (a), (b) and (d) and (5) and article 5 (1)–(3) of the Convention |
| Previous follow-up information: | None   |

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### 1. Remedy

66. Concerning the author, the State party is under an obligation:

(a) To afford him the right to compensation for any legal costs incurred in filing the communication;

(b) To take appropriate measures to ensure that the author is given the opportunity to undergo an assessment of fitness for alternative duties for the purpose of evaluating his potential to undertake modified duties or other complementary activities, including any reasonable accommodation that may be required.

67. In general, the State party is under an obligation to take measures to prevent similar violations in the future, including by:

(a) Taking all necessary measures to align the modified-duty regulations of L'Hospitalet de Llobregat municipal police and their application with the principles enshrined in the Convention and the recommendations contained in the Committee's Views, ensuring that assignment to modified duty is not restricted only to officials of the municipal police;

(b) Harmonizing the variety of local and regional regulations governing the assignment of public officials to modified duty in accordance with the principles enshrined in the Convention and the recommendations contained in the Committee's Views.

### 2. State party's response

68. In its observations dated 1 March 2024, the State party indicates that it has no record of the author having claimed compensation for the costs incurred in submitting the communication. The State party indicates that, in 2022, the modified-duty regulations of L'Hospitalet de Llobregat municipal police were approved. The State party also reports on other measures taken by the L'Hospitalet de Llobregat City Council. The State party has communicated the Committee's Views to the competent authorities and published them online.

### 3. Author's comments

69. In his comments dated 14 June 2024, the author states that the modified-duty regulations have not been applied to him, and the State party has not implemented the Committee's individual recommendations. The author fears that he will have to litigate once again to ensure their implementation. The author requests an investigation in the State party into the situation of civil servants with disabilities and that the Special Rapporteur on the rights of persons with disabilities be informed of the findings.

#### 4. Decision of the Committee

70. The Committee notes the State party's assertion that it has no record of the author having claimed compensation for costs. The Committee welcomes the adoption of the modified-duty regulations of L'Hospitalet de Llobregat municipal police but regrets that they have not been applied to the author. In this regard, the Committee notes his claim that none of the individual recommendations has been implemented. In view thereof, the Committee decides to keep the follow-up dialogue open and to request further information from the State party.

#### K. *Bellini et al. v. Italy* (CRPD/C/27/D/51/2018)

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|                                 |  |
|---------------------------------|--|
| Date of adoption of Views:      | 26 August 2022   |
| Subject matter:                 | Lack of legal recognition of and social support for family caregivers of persons with disabilities   |
| Articles violated:              | Articles 19, 23 and 28 (2) (c) read in conjunction with article 5 of the Convention, as well as article 28 (2) (c), read in conjunction with article 5 of the Convention |
| Previous follow-up information: | None   |

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#### 1. Remedy

71. Concerning the author, her daughter and her partner, the State party is under an obligation:

(a) To afford them adequate compensation, including for any legal costs incurred in filing the communication;

(b) To take appropriate measures to ensure that the author's family has access to adequate individualized support services, including respite care services, financial support, counselling services, social support and other adequate support options, in order to ensure their rights under articles 19, 23 and 28 (2) (c) of the Convention.

72. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party:

(a) To ensure, through amending its domestic legislation as necessary, that social protection programmes meet the requirements of the diverse range of persons with disabilities on an equal basis with others;<sup>3</sup>

(b) To inform persons with disabilities about their right to live independently and be included in the community in ways that they can understand and provide empowerment training with the aim of supporting persons with disabilities to learn how to enforce their rights;<sup>4</sup>

(c) To implement safeguards to retain the right to autonomous independent living across all regions, and redirect resources from institutionalization to community-based services and increase budget support to enable persons with disabilities to live independently and have equal access to services, including personal assistance and support for family caregivers, where applicable.

#### 2. State party's response

73. In its observations dated 3 April 2023, the State party notes that its Minister for Disabilities will prepare a bill on the role of family caregivers and has set up a technical panel to identify areas of intervention and the needs of caregivers and to formulate proposals for the protection and safeguarding of family caregivers. Among the measures taken, the State

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<sup>3</sup> General comment No. 5 (2017), para. 97 (c).

<sup>4</sup> *Ibid.*, para. 97 (f).

party mentions Law No. 227 of 22 December 2021 on the delegation of powers in the field of disability; the Decree of the President of the Council of Ministers of 3 October 2022 on the adoption of the national plan on non-self-sufficiency and the allocation of the non-self-sufficiency fund for 2022–2024; the Decree of the Minister for Disabilities of 17 October 2022 on the criteria and modalities for the use of the resources of the fund to support the care and assistance role of the family caregiver for 2022; article 1 of Law No. 197 of 29 December 2022, which establishes specific financial support for the families of persons with disabilities; article 2 (1) (n) of Legislative Decree No. 105/2022, which allows certain cohabiting spouses of persons with disabilities to take a specific form of leave; and article 3 (1) (a) of Legislative Decree No. 105/2022 on leave for the mother or father of a child with disabilities in a situation of demonstrated severity. The State party also mentions the establishment of the Fund for Assistance to Persons with Severe Disabilities without Family Support (“Dopo di noi” Fund), from which €76.1 million was allocated for 2022, including for deinstitutionalization and home support. The National Plan for Recovery and Resilience provides for the allocation of substantial resources to persons with disabilities and is aimed at redistributing care tasks and better supporting caregivers.

### 3. Author’s comments

74. Despite a reminder sent on 15 December 2023, the author has not commented on the State party’s observations sent to her on 6 October 2023.

### 4. Decision of the Committee

75. The Committee notes that the State party has taken measures to advance social protection programmes for persons with disabilities and to improve their autonomy. However, the Committee regrets that the State party has not provided any information on measures taken to implement the individual recommendations or regarding the recommendation to inform persons with disabilities about their right to live independently and be included in the community. In view thereof, the Committee decides to discontinue the follow-up procedure, with an assessment of “B” (partial compliance).

## L. *N.L. v. Sweden* (CRPD/C/23/D/60/2019)

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|                                 |                              |
|---------------------------------|------------------------------|
| Date of adoption of Views:      | 28 August 2020               |
| Subject matter:                 | Deportation to Iraq          |
| Article violated:               | Article 15 of the Convention |
| Previous follow-up information: | <a href="#">CRPD/C/30/3</a>  |

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### 1. Remedy

76. Concerning the author, the State party is under an obligation:

(a) To provide her with an effective remedy, including compensation for any legal costs incurred in filing the communication;

(b) To review the author’s case, taking into account the State party’s obligations under the Convention and the Committee’s Views;

(c) To publish the Committee’s Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

77. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In that regard, the Committee requires the State party to ensure that the rights of persons with disabilities, on an equal basis with others, are properly considered in the context of asylum decisions.

## 2. Previous follow-up decision

78. In the follow-up progress report on individual communications adopted at its thirtieth session, the Committee decided to keep the follow-up dialogue open and to request further information from the State party.

## 3. State party's response

79. In its observations dated 1 July 2024, the State party observes that, on 12 October 2020, following the transmittal of the Committee's Views, the Migration Agency opened a new case concerning impediments to the enforcement of the author's expulsion order. On 16 June 2021, the European Union Agency for Asylum provided information on access to the necessary treatment in Iraq. The expulsion order in question became statute-barred on 29 June 2021, which prompted the discontinuation of the case. On 14 July 2021, the author reapplied for asylum. On 30 March 2022, the Migration Agency rejected her application, noting that, while her condition was life-threatening, according to country information, all required care, including all medication or equivalents, was available in Baghdad. She would have a support network in Baghdad, as she had lived most of her life there, the security situation would not affect her access to care, and she did not belong to a vulnerable group. On 2 December 2022, the Migration Court rejected her appeal, finding that her partner could travel with her to Iraq. On 27 January 2023, the Migration Court of Appeal refused leave to appeal. The State party considers that it has complied with the Committee's Views.

## 4. Author's comments

80. In her comments dated 22 October 2024, the author notes that, in her most recent asylum application, she indicated her additional diagnosis of chronic obstructive pulmonary disease. On 24 June 2021, the Migration Agency found that not all medication was available in Iraq. According to the author, it is not clear whether the medication in question is vital to her or whether equivalent medication is available in Iraq. Further examination is therefore necessary. The country information did not reflect the fact that she is a vulnerable woman with multiple diseases without a support network and that medication costs are high. She also argues that individual and sufficient assurances should have been obtained from Iraq. Moreover, her Swedish partner has no intention of living in Iraq. It is not reasonable to expect that a Swedish citizen should leave the European Union to ensure the author's access to care. The Migration Court also ignored the fact that her condition affects her ability to seek treatment.

## 5. Decision of the Committee

81. Recalling its conclusion, in its Views, that the State party's authorities had failed to assess the author's access to the necessary care in Iraq, the Committee notes that they conducted such an assessment in the most recent proceedings. However, the Committee notes the author's argument that they ignored the fact that her condition affects her ability to seek treatment. The Committee notes the dissemination of its Views but regrets that the State party has not implemented the general recommendations and has refused to reimburse the author for legal costs. In view thereof, the Committee decides to discontinue the follow-up procedure, with an assessment of "B" (partial compliance).

## M. *S.M. v. Denmark* (CRPD/C/29/D/61/2019)

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|                                 |   |
|---------------------------------|---|
| Date of adoption of Views:      | 25 August 2023  |
| Subject matter:                 | Forced psychiatric interventions; deprivation of freedom based on psychosocial disability |
| Articles violated:              | Articles 14 and 17, read in conjunction with article 25 of the Convention                 |
| Previous follow-up information: | None  |

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## 1. Remedy

82. With respect to the author, the State party is under an obligation:

(a) To provide him with an effective remedy, including reimbursement of any legal costs incurred by him, together with compensation;

(b) To make a public acknowledgement of the violation of the author's rights in accordance with the Committee's Views and adopt any other appropriate measure of satisfaction;

(c) To publish the Committee's Views and circulate them widely, in accessible formats, so that they are available to all sectors of the population.

83. In general, the State party is under an obligation to take measures to prevent similar violations in the future and to ensure effective access to justice for persons with disabilities on an equal basis with others; in this regard, the Committee refers to the recommendations contained in its concluding observations on the initial report of the State party<sup>5</sup> and the Committee's guidelines on the right to liberty and security of persons with disabilities<sup>6</sup> and requires that the State party:

(a) Adopt a policy to initiate a structural review of the procedures used to sanction persons with disabilities when they commit criminal offences; the system should comply with the general safeguards and guarantees established for all persons accused of a crime in the criminal justice system, inter alia, the presumption of innocence and the right to defence and to a fair trial;

(b) Take all measures necessary, including the revision of the Mental Health Act, to ensure that persons with disabilities enjoy the right to liberty and security of person; the Committee recommends that the State party ensure that no one will be detained in any facility on the basis of actual or perceived disability;

(c) Amend laws and regulations in order to abolish the use of physical, chemical and other medical non-consensual measures, with regard to persons with psychosocial disabilities in institutions; the Committee recommends in particular that the State party provide training on treatment in accordance with the Convention to medical professionals and personnel in care institutions and other similar institutions on preventing torture and other cruel, inhuman or degrading treatment or punishment.

## 2. State party's response

84. In its observations dated 1 March 2024, the State party summarizes relevant legislation. The State party has not provided the author with a remedy or acknowledged the violation of his rights, as the fact of being of unsound mind when committing a crime does not influence the criminal procedure, the standard of proof, the right to a lawyer or the presumption of innocence. Applying measures to deter further crimes instead of imprisonment does not breach article 14 of the Convention. Moreover, abolishing forced treatment, which is aimed at eliminating the threat that a patient would otherwise pose, is not in the patient's or society's best interest. Therefore, the State party disagrees with the Committee's finding under article 17, read in conjunction with article 25, of the Convention.

85. The State party considers that coercive psychiatric measures should be a last resort. In 2022, a 10-year plan, with an annual budget of 500 million kroner, was adopted that is aimed, inter alia, at reducing their use. In 2023, a policy on the psychiatric system, which is also aimed at reducing coercion, was adopted with a budget of 0.4 billion kroner for 2024. Psychiatric hospital staff receive relevant training. There is an increased awareness of the benefit of social activities during long-term psychiatric hospitalization. The State party will transmit the Committee's Views to the relevant authorities. The State party considers that it has implemented the Committee's Views.

<sup>5</sup> CRPD/C/DNK/CO/1, paras. 35, 37 and 39.

<sup>6</sup> A/72/55.

### 3. Author's comments

86. In his comments dated 16 April 2024, the author argues that he was subjected to forced treatment because his opinions are “politically difficult”. According to the author, there were 3,327 “psychiatric arrests or compulsory admissions” in Denmark in 2023. In all cases in which a healthcare worker was killed in that context, the killer was a man. As that has not been acknowledged, he has moved to Ukraine, which has abolished forced psychiatric treatment. Invoking article 16 of the Convention and the Committee’s finding that his claim of gender-based discrimination is insufficiently substantiated, the author requests the State party to inform him of the gender theory to which it ascribes and what constitutes a gender-sensitive approach in Denmark.

### 4. Decision of the Committee

87. The Committee regrets that the State party has not implemented the individual recommendations. Noting the State party’s policy on reducing the use of coercive psychiatric measures, the Committee regrets that the State party has not implemented its general recommendations. In view thereof, the Committee decides to discontinue the follow-up procedure, with an assessment of “C” (non-compliance).

## N. *García Vara v. Mexico* (CRPD/C/28/D/70/2019)

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|                                 |   |
|---------------------------------|---|
| Date of adoption of Views:      | 23 March 2023   |
| Subject matter:                 | Lack of accessibility and reasonable accommodation to guarantee the right to inclusive tertiary education for a woman with an intellectual disability |
| Articles violated:              | Articles 5 and 24, read alone and in conjunction with articles 4, 8 and 9 of the Convention   |
| Previous follow-up information: | None  |

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### 1. Remedy

88. Concerning the author, the State party is under an obligation:

(a) To provide her with an effective remedy, including reimbursement of any legal costs she has incurred, together with appropriate compensation for the harm suffered, taking into account the loss of employment opportunities stemming from her being denied her right to tertiary education;

(b) Should it remain the author’s wish, to guarantee her right to tertiary education by ensuring the accessibility of the admission process at an educational institution of her choosing, including through the provision of any necessary reasonable accommodation;

(c) To publicly acknowledge, pursuant to the Committee’s Views, the violation of the author’s right to inclusive tertiary education;

(d) To publish the Committee’s Views and circulate them widely in accessible formats so that they are available to all sectors of the population.

89. In general, the State party is under an obligation to take measures to prevent similar violations in the future. In this regard, the Committee requests the State party, in close consultation with persons with disabilities and the organizations that represent them:

(a) To establish, in law and policy, an inclusive education system at all levels – primary, secondary, post-secondary and lifelong learning – including support measures, the provision of reasonable accommodation, adequate funding and training for educational staff. The State party should develop indicators to monitor the measures adopted;

(b) To establish complaints mechanisms and legal remedies that are independent, effective, accessible, transparent, safe and applicable to cases of violations of the right to

education,<sup>7</sup> ensure that justice officials receive training and that information on the right to education and how to challenge the denial or violation of this right is widely disseminated among persons with disabilities through their representative organizations;

(c) To take measures to raise awareness and challenge stereotypes, prejudices and harmful practices relating to persons with disabilities, targeting in particular practices affecting women and girls with disabilities, persons with intellectual disabilities and persons with intensive support requirements.<sup>8</sup>

## **2. State party's response**

90. In its observations dated 24 October 2023, the State party indicates that the Ministry of the Interior contacted the author to discuss measures of satisfaction, rehabilitation and compensation. On 5 July 2023, they agreed that she would provide input on legal costs and on a proposal for comprehensive reparation. Negotiations with the author remain ongoing. In addition, the State party is working to ensure that the Executive Commission for Victim Support registers her in the National Register of Victims. Concerning measures of non-repetition, the State party reports on the legislation in force and being developed on inclusive education. The Morelos Arts Centre has indicated that the author has not taken steps to enrol in the institution.

## **3. Author's comments**

91. In her comments dated 29 January 2024, the author confirms that, despite an agreement with the authorities, none of the individual recommendations has been implemented. Her repeated requests for meetings have remained unanswered. The author maintains that the State party has not implemented the general recommendations. She refers to violations by institutions against persons with disabilities in the absence of any reasonable accommodation.

## **4. State party's response**

92. In its observations dated 22 March 2024, the State party indicates that the author's registration in the National Register of Victims of the Executive Commission for Victim Support of the State of Morelos remains pending. The State party informs the Committee that, if she remains interested in attending the Morelos Arts Centre, she should inform the Director of the Centre so that reasonable accommodation can be provided. Regarding guarantees of non-repetition, the State party notes that, in 2023, the Supreme Court held that articles 61 to 68 of the Education Act, on inclusive education, were invalid, as they contained discriminatory and exclusionary criteria. The State party has yet to replace those provisions. The State party notes that the Federal Judicial Training School trains members of the federal judiciary, including on the human rights of women, girls and persons with disabilities.

## **5. Decision of the Committee**

93. The Committee notes that the State party has contacted the author to discuss compensation and that her registration in the National Register of Victims remains pending. The Committee also notes that her requests for additional meetings went unanswered. The Committee regrets the lack of specific information on measures taken to advance inclusive education at all levels. As negotiations between the author and the State party remain ongoing, the Committee decides to keep the follow-up dialogue open and to request further information from the State party.

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<sup>7</sup> General comment No. 4 (2016), para. 65.

<sup>8</sup> *Ibid.*, para. 48.