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Committee on the Rights of Persons with Disabilities**Views adopted by the Committee under article 5
of the Optional Protocol, concerning communication
No. 95/2022^{*,**}**

<i>Communication submitted by:</i>	Igors Rožalovskis
<i>Alleged victim:</i>	The author
<i>State Party:</i>	Latvia
<i>Date of communication:</i>	18 April 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 30 March 2022 (not issued in document form)
<i>Date of adoption of views:</i>	26 March 2026
<i>Subject matter:</i>	Termination of employment pending recognition of disability
<i>Procedural issues:</i>	Incompatibility <i>ratione materiae</i> ; substantiation of claims
<i>Substantive issues:</i>	Discrimination on the ground of disability; employment rights
<i>Articles of the Convention:</i>	5(1) and 27(1)(a) and (h)
<i>Articles of the Optional Protocol:</i>	2(b) and (e)

1.1 The author of the communication is Igors Rožalovskis, a national of Latvia born in 1968. He submits that the State Party has breached his rights under articles 5(1) and 27(1)(a) and (h) of the Convention. The Optional Protocol entered into force for the State Party on 30 September 2010. The author is not represented.

1.2 On 23 August 2023, the Committee, acting through its Special Rapporteur on new communications and interim measures, rejected the State party's request to examine the admissibility of the communication separately from the merits.

* Adopted by the Committee at its thirty-fourth session (9–27 March 2026).

** The following members of the Committee participated in the consideration of the communication: Muhannad Salah Al-Azzeh, Magino Corporán Lorenzo, Gerel Dondovdorj, Amalia Eva Gamio Ríos, Natalia Guala Beathyate, Miyeon Kim, Alfred Kouadio Kouassi, Abdelmajid Makni, Floyd Morris, 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.

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

Factual background

2.1 On 8 June 1992, the author started working at Rīgas Ūdens Ltd, a municipal water supply company. On 29 December 2014, he stopped his work due to “temporary incapacity” to continue his functions. On 19 June 2015, the author applied for recognition of his disability. On 2 July 2015, Rīgas Ūdens Ltd. issued a notice of termination of the employment contract based on clause 11 of paragraph 1 of Section 101 of the Labour Law. This provision stipulates that an employer may terminate an employment contract in writing if the employee has not been working due to temporary incapacity for more than six months, if the incapacity is uninterrupted, or for one year within a three-year period, if the incapacity recurs with interruptions, excluding a prenatal and maternity leave in such period, as well as a period of incapacity, if the reason of incapacity is an accident at work, the cause whereof being related to the exposure to the environment factors or an occupational disease. The notice, issued after the author’s absence from work for more than six months, indicated that the dismissal would enter into force no earlier than 20 July 2015.

2.2 On 26 June 2015, the Labour Inspectorate conducted a “workplace hygienic description” in the context of the investigation into the author’s occupational health, in which representatives of Rīgas Ūdens Ltd. participated. According to the author, at the time of the issuance of the termination notice, the company was therefore aware of his occupational disease. On 20 July 2015, the Medical Commission for the Assessment of Health Condition and Work Ability assessed that the author had a Group III disability caused by “illness” since 19 June 2015. Subsequently, it extended recognition of this disability until 18 June 2018. It also determined that he had a Group III disability with 25% loss of ability to work due to “occupational disease” from 22 May 2017 until 21 May 2019, and thereafter from 22 May 2019 until 21 May 2024. The Commission found that the author’s work had been harmful to him. On 26 August 2015, the Occupational Disease Medical Commission of the Occupational and Radiological Medicine Centre of Pauls Stradins Clinical University Hospital ascertained that the author had an occupational disease.

2.3 On 27 July 2015, the author filed a claim with the Riga City Vidzeme District Court against Rīgas Ūdens Ltd, requesting the annulment of the termination of his employment and his reinstatement. The author submitted that the termination had been illegal because the cause of his incapacity to work was his occupational illness and the termination should have been agreed with both trade unions of which he was a member, not just one. On 21 September 2015, the Riga City Vidzeme District Court rejected the author’s claim on the ground that he had been diagnosed with an occupational disease on 26 August 2015, i.e., after the termination of his employment, and the employer’s alleged lack of communication with the trade unions was not illegal. On an unspecified date, the author appealed the judgment of the Riga City Vidzeme District Court. On 25 January 2016, the Riga Regional Court upheld his appeal, noting that the employer had been aware of the pending investigation into an occupational disease as a possible cause for his incapacity to work, which was later confirmed. Consequently, the employer should have considered whether there were no obstacles to dismissing him under the Labour Law. Thus, the Regional Court found that the notice of termination was not legally justified. On 4 July 2017, following a cassation appeal by Rīgas Ūdens Ltd, the Supreme Court annulled the judgment of the Riga Regional Court and remanded the case for a retrial. The Supreme Court noted that both conditions in the Labour Law for the employer to be allowed to issue a notice of termination were met Rīgas Ūdens Ltd issued the notice. The Court of Appeal’s finding that Rīgas Ūdens Ltd had arbitrarily assumed that the reason for his incapacity for work was not an occupational disease was therefore contrary to the evidence in the case. Moreover, employers have neither the ability nor the competence to assess the nature of a disease.

2.4 On 11 August 2017, the Riga Regional Court issued a new judgment, rejecting the author’s complaint against Rīgas Ūdens Ltd in its entirety. On 17 November 2017, the Supreme Court dismissed the author’s cassation appeal. On 26 February 2018, the Constitutional Court dismissed the author’s constitutional complaint, holding that it did not provide a legal basis for ascertaining a violation of the Constitution or of the author’s fundamental rights.

The complaint

3. The author submits that his dismissal was not grounded in domestic legislation and that the courts failed to protect him, in breach of his rights under articles 5(1) and 27(1)(a) and (h) of the Convention. He argues that he was dismissed despite the protection afforded to him by section 109 of the Labour Law¹ against being dismissed on the ground of his disability, in violation of his rights under article 5 of the Convention. He notes that the Committee has held that “article 27 of the Convention implies an obligation on the part of States parties to create an enabling and conducive environment for employment, including in the private sector”.² He affirms that the State Party’s failure to protect him against being dismissed is manifestly arbitrary, amounts to a denial of justice and constitutes a breach of article 27 of the Convention. As a remedy, he requests a payment of 30,000 Euro, the equivalent of three years’ worth of his monthly salary of 800 Euro.

State Party’s observations on admissibility and the merits

4.1 In its observations dated 27 May 2022, the State Party requests the Committee to declare the communication inadmissible under article 2(b) and (e) of the Optional Protocol as incompatible with the provisions of the Convention and manifestly ill-founded.

4.2 The State Party submits that it did not discriminate against the author on the ground of his disability and that it consequently did not breach his rights under article 5(1) of the Convention. The State Party argues that the communication concerns an individual labour law dispute that was considered by all levels of the domestic courts, which, having examined all evidence, assessed that the author’s dismissal was legally justified, as he had not been able to work for six consecutive months and had not established the existence of a disability or occupational disease when the notice of termination was issued. The author was thus treated in the same way as persons not assessed to have a disability or occupational disease at the time of termination of their employment. According to the State Party, the author did not ask the courts to assess the lawfulness of his dismissal with reference to his disability, but to the circumstances of the diagnosis of his occupational disease and the lack of consent of both trade unions of which he was a member, circumstances which, the State Party affirms, are outside the scope of the Convention. Moreover, article 27 of the Convention does not prohibit the termination of employment of persons with disabilities *per se*. Given that the author was not diagnosed with an occupational disease or disability at the time of his dismissal, there was no violation of said provision.

4.3 The State Party observes that the Labour Law prohibits discrimination against persons with disabilities in the workplace and obliges employers to promote equal rights, adapt the work environment, and promote opportunities for persons with disabilities to establish employment relationships, fulfil work responsibilities, be promoted and trained, insofar as such measures do not impose a disproportionate burden on the employer. Neither disability nor temporary incapacity for work may be a reason to dismiss a person. At the same time, the Labour Law allows dismissing an employee after six months of continuous illness and non-performance of his or her functions.

Author’s comments on the State Party’s observations on admissibility and merits

5. In his comments dated 28 September 2022, the author emphasises that in its assessment dated 20 July 2015, the Medical Commission for the Assessment of Health Condition and Work Ability noted that his disability was established from 19 June 2015, that is, prior to the issuance of the termination notice. His health damage was assessed to be 29-59%. He notes that the review process for occupational illnesses takes nine to twelve

¹ Paragraphs 2 and 3 of this provision stipulate the following: “(2) An employer is prohibited from giving a notice of termination of an employment contract to an employee who is declared to be a disabled person, except in cases set out in Section 101, Paragraph one, Clauses 1, 2, 3, 4, 5, 7 and 10, and Section 47, Paragraph one of this Law. (3) An employer does not have the right to give a notice of termination of an employment contract during a period of temporary incapacity of an employee, as well as during a period when an employee is on leave or is not performing the work due to other justifiable reasons.”

² *Gröninger et al. v. Germany* (CRPD/C/D/2/2010), para. 6.2.

months, whereas the law allows for termination of employment after six months of illness. Moreover, he claims that Rīgas Ūdens Ltd. was aware of the documentation of the Medical Commission for the Assessment of Health Condition and Work Ability regarding his temporary incapacity to work.

State Party's additional observations

6.1 In its observations dated 20 December 2023, the State Party notes that the Disability Law provides for the retroactive validity of decisions on disability status to give the person concerned the right to a disability pension, social security benefits or relevant benefits. The State Party reiterates that, at the time of the issuance of the termination of his employment, neither the author nor his employer had any information that he would later acquire a disability status. The State Party observes that an employee diagnosed with an occupational disease is provided with special protection, including in case of dismissal and in the form of a higher amount of insurance indemnity. Thus, the author had a right to a higher amount of social insurance payments and compensation for treatment and rehabilitation. He also received a severance payment. Persons with disabilities also have the right to requalification and professional rehabilitation if they can no longer continue their profession. The State Party reiterates that the termination of the author's employment was unrelated to his disability and that it did not breach his rights under articles 5 or 27 of the Convention.

6.2 The State Party observes that in 2019-2022, the Ministry of Welfare participated in a project on the "Evaluation and improvement of the Latvian disability assessment system" of the European Commission Structural Reform Support Programme. The Ministry of Welfare is reassessing disability criteria to align with standards of the World Health Organisation.

B. Committee's consideration of admissibility and the merits

Consideration of admissibility

7.1 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.

7.2 The Committee notes the State Party's submission that the communication is inadmissible under article 2(b) and (e) of the Optional Protocol as incompatible with the provisions of the Convention and manifestly ill-founded. The Committee considers, however, that the author's allegations of violations of his rights under the Convention, emanating from the confirmation by the State Party's courts of his dismissal following six months of "incapacity" to work and while his confirmation for recognition of his disability was pending, raise issues of substance under the Convention. The Committee further considers that the author has sufficiently substantiated his claims under articles 5(1) and 27(1)(a) of the Convention for the purpose of admissibility. However, the Committee considers that the author has not provided sufficient information for it to consider his claim of a violation of article 27(1)(h) of the Convention. The Committee therefore considers that articles 2 b) and 3) of the Optional Protocol do not constitute an obstacle to the admissibility of the author's claims under articles 5(1) and 27(1)(a) of the Convention and proceeds with its examination of the merits.

Consideration of the merits

8.1 The Committee has considered the communication in the light of all the information that it has received, in accordance with article 5 of the Optional Protocol and rule 73 (1) of its rules of procedure.

8.2 The Committee takes note of the author's claim that, in view of his disability and occupational illness, he was dismissed from his job at Rīgas Ūdens Ltd in breach of his rights under articles 5(1) and 27(1)(a) and (h) of the Convention. The Committee also notes the State Party's argument that the dismissal was in accordance with domestic law as no occupational disease had been established when the termination notice was issued, and the author was thus treated in the same way as other persons not assessed to have a disability or

occupational disease; the domestic courts reviewed all relevant evidence and upheld his dismissal; and he was provided with social insurance payments, compensation for treatment, rehabilitation and a severance payment.

8.3 The Committee recalls, with reference to article 2, paragraph 3, of the Convention, that “‘discrimination on the basis of disability’ means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” The Committee observes that a law which is applied in a neutral manner may have a discriminatory effect when the particular circumstances of the individuals to whom it is applied are not taken into consideration. The right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention can be violated when States, without objective and reasonable justification, fail to treat differently persons whose situations are significantly different.³ The Committee also recalls that non-discrimination and equality are core obligations of article 27, extend to the actions of third parties, such as the business sector, and apply throughout the employment cycle, which includes recruitment, hiring and employment, continuance of employment, training programmes and career advancement, as well as searching and applying for work and exiting work.⁴

8.4 Concerning the State Party’s argument that the author’s occupational illness had not been established when he was dismissed, the Committee recalls that, under article 1 of the Convention, persons with disabilities include, but are not limited to, those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others. The Committee thus considers that formal recognition of disability is evidentiary rather than constitutive. In the present case, the author’s disability and occupational disease were established on 26 August 2015, i.e., after his dismissal on 2 July 2015. However, the parties do not contest that the author was absent from his work for six months because of his “incapacity” to work and that Rīgas Ūdens Ltd dismissed him on this ground, while aware that he had commenced the procedure to formally establish his disability. The Committee thus notes that the author’s employer was fully aware that he had impairments that had precluded him from performing his functions for six months, and that he had applied for recognition of his disability. The Committee further notes that the State Party’s courts rejected the author’s challenge to his dismissal on the ground that there was no recognition at the time that his absence was caused by a disability. However, the Committee notes that the author had applied for such recognition and considers it arbitrary for the State Party’s courts to have rejected his challenge on said ground while another of the State Party’s institutions was considering the author’s application for such recognition at the same time. Given the employer’s awareness of his impairments for more than six months and the pending recognition of his disability, the Committee considers that the domestic courts’ reliance on the absence of formal recognition to uphold his dismissal amounted to discrimination on the basis of disability, in violation of his rights under articles 5 and 27(1)(a) of the Convention. The Committee considers that the State Party’s further observations that the courts reviewed all relevant evidence before upholding his dismissal, and that he was provided with certain social protection, are immaterial to the discriminatory nature of the courts’ confirmation of his dismissal.

8.5 In light of the foregoing, the Committee considers that the State Party has breached the author’s rights under articles 5 and 27(1)(a) of the Convention.

C. Conclusion

9. The Committee, acting under article 5 of the Optional Protocol, is of the view that the State Party has failed to fulfil its obligations under articles 5 and 27(1)(a) of the Convention. The Committee therefore makes the following recommendations to the State Party:

³ *H.M. v. Sweden* (CRPD/C/7/D/3/2011), para. 8.3; *S.K. v. Finland* (CRPD/C/26/D/46/2018), para. 9.5.

⁴ CRPD/C/GC/8, para. 12.

- (a) Concerning the author, the State Party is under an obligation to:
 - (i) Provide him with an effective remedy, including effective reparation, adequate monetary compensation for the violations of his rights under the Convention and all required support to re-enter the labour market and find another job if that is his wish;
 - (ii) Publish the present Views, translate them into the State party's official language and circulate them widely in accessible formats so that they are available to all sectors of the population.

(b) In general, the State Party is under an obligation to take measures to prevent similar violations in the future, including by ensuring that the provisions of the Labour Law concerning termination of employment are fully compliant with the Convention and by taking measures to raise awareness of the right of persons with disabilities to work, on an equal basis with others.

10. In accordance with article 5 of the Optional Protocol and rule 76 of the Committee's rules of procedure, the State Party should submit to the Committee, within six months a written response, including information on any action taken in the light of the present Views and recommendations of the Committee.
