



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial periodic report of Hungary, adopted by the Committee at its eighth session (17-28 September 2012)

1. The Committee considered the initial report of Hungary (CRPD/C/HUN/1) at its 81st and 82nd meetings, held on 20 and 21 September 2012, and adopted the following concluding observations at its 90th and 91st meetings, held on 26 and 27 September 2012.

I. Introduction

2. The Committee welcomes the initial report of Hungary, which was one of the first States to submit its initial report to the Committee. The Committee commends the State party for the written replies to the list of issues raised by the Committee (CRPD/C/HUN/Q/1/Add.1) and for the comprehensive responses to the questions posed during the dialogue.

3. The Committee commends the State party for its delegation, which included representatives of various Government ministries, including many senior representatives, as well as one person with a disability who is a senior civil servant among its members. The Committee expresses its appreciation for the spirited and fruitful dialogue held between the delegation and the members of the Committee.

II. Positive aspects

4. The Committee welcomes the State party's support for the promotion and implementation of the Convention at the global and regional levels, including through its support for the Bureau of the Conference of the State Parties and to other United Nations mechanisms in support of the effective implementation of the Convention.

5. The Committee congratulates the State party for including the explicit prohibition of disability-based discrimination in its Fundamental Law.

6. The Committee notes with satisfaction the adoption of the National Programme of Disability Affairs (2007-2013) and the Governmental Resolution 1062/2007.(VIII.7.) on the medium term action plan of the programme for the period 2007-2010, and the mainstreaming of disability in a number of other government policies.

7. The Committee welcomes the State party's publication of the Convention in the Hungarian Gazette in Braille print, sign language and an easy-to-read format.

8. The Committee commends the State party's adoption of Act CXXV of 2009 on Hungarian Sign Language and the use of Hungarian Sign Language.

9. The Committee notes with appreciation the use of regional European Union funds by the State party to provide training in accessibility for relevant professionals and in higher education.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1-4)

10. The Committee notes with concern that definitions of disability and persons with disabilities in the State party's legislation focus on the impairments of an individual rather than on the barriers he/she faces. The Committee expresses its concern that such definitions fail to encompass all persons with disabilities, including those with psychosocial disabilities.

11. The Committee notes with appreciation that Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities was drafted to promote the rights of persons with disabilities in the State party. The Committee expresses concern, however, over the fact that the Act has not been reviewed since the adoption by the State party of the Convention, with a view to aligning it with the provisions of the Convention.

12. The Committee recommends that the State party use the upcoming review of Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities to: ensure that it is in full compliance with the Convention and reflects the human rights-based approach to disability as embodied in the Convention; and to incorporate an inclusive definition of disability and persons with disabilities that is firmly rooted in the human rights-based approach to disability and encompasses all persons with disabilities, including those with psychosocial disabilities.

13. The Committee regrets the insufficient participation of persons with disabilities and their representative organizations in the review and design of disability-related legislation and policies, as well as in other policy and decision-making processes, in line with their obligation under article 4, paragraph 3, of the Convention. The Committee further regrets the fact that representative organizations of persons with disabilities from Hungary did not participate in the constructive dialogue with the Committee.

14. The Committee recommends that the State party take effective measures to consult with and actively involve persons with disabilities, including children and women with disabilities, through their representative organizations, in the planning, execution and monitoring of public decision-making processes at all levels and in particular in the matters affecting them, giving them reasonable and realistic timelines for providing their views, and providing them with adequate funding in order to enable them to fulfil their role under article 4, paragraph 3, of the Convention.

B. Specific rights (arts. 5-30)

Equality and non-discrimination (art. 5)

15. The Committee notes with concern that the State party's legislation, including Act XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities and Act

CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities, fails to state that denial of reasonable accommodation constitutes discrimination.

16. The Committee calls upon the State party to take steps to ensure that its legislation explicitly prescribes that failure to provide reasonable accommodation constitutes a prohibited act of discrimination.

17. The Committee notes with concern that the Act on the protection of the life of the foetus makes “abortive treatment possible for a wider circle than in general for the foetuses deemed to have health damage or some disability” (CRPD/C/HUN/1), thereby discriminating on the basis of disability.

18. The Committee recommends that the State party abolish the distinction made in the Act on the protection of the life of the foetus in the period allowed under law within which a pregnancy can be terminated, based solely on disability.

Women with disabilities (art. 6)

19. The Committee takes note that the State party’s Government Decree 1004/2010 (I.21.) on the National Strategy Promoting the Social Equality of Women and Men “treats the implementation of measures promoting the equality of women and specifically the equality of women with disabilities in their full integrity” (CRPD/C/HUN/Q/1/Add.1). However, the Committee regrets the lack of specific action aimed at promoting the equality of women and girls with disabilities in the Strategy.

20. The Committee calls upon the State party to adopt effective and specific measures to ensure equality and prevent multiple forms of discrimination of women and girls with disabilities in its policies, and to mainstream a gender perspective in its disability-related legislation and policies.

Children with disabilities (art. 7)

21. The Committee takes note of the State party’s expression of dedication to protect and promote the rights of children with disabilities. However, the Committee is concerned about the large number of children living in institutional settings and about the fact that many children with disabilities receive institutional rather than home care. It stresses the importance of allocating sufficient resources to enable children with disabilities to continue living with their families in their own communities.

22. The Committee calls upon the State party to undertake greater efforts to make available the necessary professional and financial resources, especially at the local level, to promote and expand community-based rehabilitation and other services in their respective local communities to children with disabilities and their families, in order to enable children with disabilities to live with their families, as recommended by the Committee on the Rights of the Child (CRC/C/HUN/CO/2).

Accessibility (art. 9)

23. The Committee notes with appreciation that the State party has set deadlines for fulfilling the provisions of the law for accessibility of public services rendered by the State (31 December 2010), the accessibility of educational, health and social services as well as that of municipality client services (31 December 2008, 2009 and 2010 respectively) and allocated considerable funds for the removal of barriers by 2011, 2012 and 2013. However, the Committee is concerned that the above-mentioned deadlines have not been fully met and that there are initiatives to postpone them further. The Committee is also concerned about the financial challenges faced by the authorities charged with monitoring the implementation of the accessibility legislation.

24. **The Committee calls upon the State party to undertake efforts to meet the deadlines for removal of accessibility barriers set in its own legislation and policies, without any postponement of the set deadlines. The Committee calls upon the State party to additionally strengthen the monitoring mechanisms in order to ensure accessibility and to continue providing sufficient funds for the removal of accessibility barriers and the continued training of relevant monitoring staff.**

Equal recognition before the law (art. 12)

25. The Committee takes note of the fact that the State party is undertaking efforts to harmonize its national legislation with the provisions of article 12 of the Convention. It welcomes the plans to provide for supported decision-making in the drafting of the new Civil Code. The Committee however remains concerned about the possibility of maintaining a modified regime of substitute decision-making in the drafting of the new Civil Code. The Committee is also concerned that the process of drafting of the new Civil Code has not been used to provide for a detailed and viable framework for supported decision-making in the exercise of legal capacity in accordance with the provisions of article 12 of the Convention.

26. **The Committee recommends that the State party use effectively the current review process of its Civil Code and related laws to take immediate steps to derogate guardianship in order to move from substitute decision-making to supported decision-making which respects the person's autonomy, will and preferences and is in full conformity with article 12 of the Convention, including with respect to the individual's right, in his/her own capacity, to give and withdraw informed consent for medical treatment, to access justice, to vote, to marry, to work, and to choose a place of residence. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges, and social workers, on the recognition of the legal capacity of persons with disabilities and on mechanisms of supported decision-making.**

Liberty and security of the person (art. 14)

27. The Committee notes with appreciation that the State party is committed to undertaking measures to provide reasonable accommodation to persons with disabilities who are deprived of their liberty. It also notes with appreciation that "personal liberty is assured by making use of the services voluntarily" (CRPD/C/HUN/1, para. 87). However, the Committee is concerned about the situation faced by persons under guardianship, where a decision on institutional care is made by the guardian rather than the person him/herself, and guardians are authorized to give consent to mental health care services on behalf of their ward. The Committee further regrets that disability, in some cases, can be the ground for detention.

28. **The Committee recommends that the State party review provisions in legislation that allow for the deprivation of liberty on the basis of disability, including mental, psychosocial or intellectual disabilities, and adopt measures to ensure that health care services, including all mental health care services, are based on the free and informed consent of the person concerned.**

Freedom of torture or cruel, inhuman or degrading treatment or punishment (art. 15)

29. The Committee is concerned that Act CLIV of 1997 on Healthcare provides for a legal framework for subjecting persons with disabilities whose legal capacity is restricted to medical experimentation without their free and informed consent, as consent may be given by their legal guardians. The Committee also notes with concern that there is no

independent medical examination body mandated to examine alleged victims of torture and guarantee respect for human dignity during the conduct of medical examinations, as stated by the Human Rights Committee (CCPR/C/HUN/CO/5).

30. **The Committee urges the State party to amend Act CLIV on Healthcare and abolish the provisions thereof that provide for a legal framework for subjecting persons with disabilities with restricted legal capacity to medical experimentation without their free and informed consent. The Committee recommends that the State party implement the recommendation made by the Human Rights Committee in 2010 (CCPR/C/HUN/CO/5) to establish “an independent medical examination body mandated to examine alleged victims of torture and guarantee respect for human dignity during the conduct of medical examinations.”**

Freedom from exploitation, violence and abuse (art. 16)

31. The Committee appreciates that the State party has taken measures to provide some specific disability-related provisions in its legislation and policies for prevention of exploitation, violence and abuse. However, it is concerned that women, men, girls and boys with disabilities continue to face violence, abuse and exploitation.

32. **The Committee recommends that the State party take effective measures to ensure protection of women, men, girls and boys with disabilities from exploitation, violence and abuse, in accordance with the Convention, inter alia, the establishment of protocols for the early detection of violence, above all in institutional settings, procedural accommodation to gather testimonies of victims, and prosecution of those persons responsible, as well as redress for victims. It also recommends that the State party ensure that protection services are age-, gender- and disability-sensitive and accessible.**

Living independently and being included in the community (art. 19)

33. The Committee takes note that the State party has recognized the need for the replacement of large social institutions for persons with disabilities in community-based settings (deinstitutionalization). The Committee, however, notes with concern that the State party has set a 30-year time frame for its plan for deinstitutionalization. It is furthermore concerned that the State party has dedicated disproportionately large resources, including regional European Union funds, to the reconstruction of large institutions, which will lead to continued segregation, in comparison with the resources allocated for setting up community-based support service networks. The Committee is concerned that the State party fails to provide sufficient and adequate support services in local communities to enable persons with disabilities to live independently outside a residential institutional setting.

34. **The Committee calls upon the State party to ensure that an adequate level of funding is made available to effectively enable persons with disabilities to: enjoy the freedom to choose their residence on an equal basis with others; access a full range of in-home, residential and other community services for daily life, including personal assistance; and enjoy reasonable accommodation with a view to supporting their inclusion in their local communities.**

35. **The Committee further calls upon the State party to re-examine the allocation of funds, including the regional funds obtained from the European Union, dedicated to the provision of support services for persons with disabilities and the structure and functioning of small community living centres, and to ensure full compliance with the provisions of article 19 of the Convention.**

Respect for home and the family (art. 23)

36. The Committee notes with concern that persons with disabilities still face various financial, physical and attitudinal barriers to founding a family and that scarcity of the support services for independent living (see paras. 34 and 35 above), presents a de facto barrier to the full and effective enjoyment of the rights set out in article 23 of the Convention.

37. The Committee calls upon the State party to take appropriate measures to enable men and women with disabilities who are of marriageable age to marry and found a family, as well as to provide adequate support services to men and women, boys and girls with disabilities to enable them to live with their families, in order to prevent or reduce the risk of placement in an institution.

38. The Committee calls upon the State party to take appropriate and urgent measures to protect persons with disabilities from forced sterilization.

Education (art. 24)

39. The Committee notes with appreciation that students with disabilities have the opportunity to study using sign language and the Braille system. It also notes that training in those subjects is provided to teachers. However, the Committee regrets that many students with disabilities continue to attend special educational institutions. It furthermore notes with concern that the State party has not taken sufficient steps to provide reasonable accommodation to all students with disabilities in mainstream educational facilities and to develop and promote an inclusive education system as defined by the Convention.

40. The Committee is further concerned by the lack of social programmes aimed at ensuring the access of Roma children with disabilities to mainstream education and by the lack of adequate consultation with them and their parents with a view to deciding what kind of support is needed to satisfy their right to education.

41. The Committee calls upon the State party to allocate sufficient resources for the development of an inclusive education system for children with disabilities. It reiterates that denial of reasonable accommodation constitutes discrimination, and recommends that the State party significantly increase its efforts to: provide reasonable accommodation to children with disabilities based on the student's individual requirements; provide students with disabilities with the required support within the general education system; and to continue training teachers and all other educational staff to enable them to work in inclusive educational settings.

42. The Committee urges the State party to develop programmes to ensure that Roma children with disabilities are included in mainstream education programmes, without disregarding the provision of reasonable accommodation that might be needed to obtain the desired outcome.

Right to work (art. 27)

43. The Committee notes with appreciation that the State party has taken a number of steps to promote the right to work of persons with disabilities, including through the inclusion of a provision on reasonable accommodation for persons with disabilities in the 2012 Labour Code (Law 1/2012). The Committee regrets, however, that the overall employment rate of persons with disabilities remains lower than for other population groups despite such efforts.

44. The Committee recommends that the State party effectively implement the disability-specific provisions of the Labour Code and develop programmes to integrate persons with disabilities into the open labour market and the education and

professional training systems, and to make all work places and educational and professional training institutions accessible for persons with disabilities, as recommended by the Committee on Economic, Social and Cultural Rights in 2008 (E/C.12/HUN/CO/3), through fulfilling the requirements of article 27 of the Convention, with a special view to further intensifying its efforts to increase the employment opportunities for women and men with disabilities in the public and private sectors.

Participation in political and public life (art. 29)

45. The Committee is very concerned about the provision in the State party's new Fundamental Law which permits a judge to remove the right to vote from those with "limited mental ability", and that legislation allows for the right to vote of persons with intellectual or psycho-social disabilities to be restricted if the person concerned has been deprived of his or her legal capacity.

46. The Committee recommends that all relevant legislation be reviewed to ensure that all persons with disabilities regardless of their impairment, legal status or place of residence have a right to vote, and that they can participate in political and public life on an equal basis with others.

C. Specific obligations (arts. 31-33)

Statistics and data-collection (art. 31)

47. The Committee regrets the low level of disaggregated data on persons with disabilities. It notes that the State party has included information on disability in its two last censuses. It regrets, however, that the preliminary data from the 2011 census, released in April 2012, did not include any indication on disability-related statistics.

48. The Committee is concerned about the lack of information regarding Roma children with disabilities. It is further concerned by the understanding of the State party of the way in which confidentiality and privacy towards children with disabilities should be considered.

49. The Committee recommends that the State party systematize the collection, analysis and dissemination of data, disaggregated by sex, age and disability; enhance capacity-building in this regard; and develop gender- and age-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring and reporting on progress made with regard to the implementation of the various provisions of the Convention, taking into consideration the changes from the medical to the human rights-based approach to disability.

50. The Committee recommends that the State party develop an appropriate data-collection system to understand the nature and characteristics of Roma persons with disabilities in general and children in particular.

National implementation and monitoring (art. 33)

51. In spite of the efforts the State party has made to put in place a monitoring mechanism for implementation of the Convention, the Committee is concerned that the National Disability Council, which has been designated to function as an independent monitoring mechanism, is not in compliance with the Principles relating to the Status of National Institutions (The Paris Principles) and, hence, not in line with article 33, paragraph 2, of the Convention.

52. **The Committee calls upon the State party to set up an independent monitoring mechanism in accordance with the Paris Principles and article 33, paragraph 2, of the Convention, and to ensure the full participation of civil society, especially organizations of persons with disabilities, in the monitoring process and framework.**

Follow-up and dissemination

53. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the State party transmit them for consideration and action to members of the Government and Parliament, officials in the relevant Ministries, members of the judiciary and of relevant professional groups, such as education, medical and legal professionals, as well as local authorities and the media, using modern social communication strategies.

54. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its second periodic report.

55. The Committee requests the State party to disseminate these concluding observations widely, including to non-governmental organizations and representative organisations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.

56. The Committee requests that the State party submit within 12 months information in writing on the measures adopted in order to meet the recommendations set out in paragraphs 26 and 46.

Next report

57. The Committee requests the State party to submit its second periodic report no later than August 2014, and to include therein information on the implementation of the present concluding observations.
