



# Convention on the Rights of Persons with Disabilities

## Committee on the Rights of Persons with Disabilities

### Inquiry concerning Hungary under article 6 of the Optional Protocol to the Convention

#### Report of the Committee\*,\*\*

#### I. Introduction

1. On 14 June 2017, the Committee received reliable information pursuant to article 6 of the Optional Protocol to the Convention alleging grave and systematic violations of the rights of persons with disabilities in Hungary.

2. The source of the information alleged that:

(a) A large number of persons with disabilities continued to be deprived, in law and in practice, of their right to equal recognition before the law;

(b) A significant amount of resources, including from the European structural and investment funds, had continued to be invested in expanding the institutionalization of persons with disabilities, including through a strategy of moving persons with disabilities from large- to small-scale group homes, preventing their inclusion in society;

(c) The continuous subjection of persons with disabilities to guardianship and institutionalization constituted disability-based discrimination;

(d) The scale, nature, impact and organized character of the above-mentioned alleged violations constituted grave and systematic violations of the Convention.

3. Hungary ratified the Convention and the Optional Protocol on 20 July 2007.

#### II. Summary of proceedings and cooperation by the State party

4. On 27 September 2017, the Committee secretariat transmitted to the State party the Committee's decision, adopted during its eighteenth session (14–31 August 2017), requesting observations within two months of the date of the original submission.

5. On 27 November 2017, the State party submitted its observations, which included comprehensive information about the system of social services concerning persons with disabilities, the guardianship regime and consultations with persons with disabilities.

6. On 14 May 2018, the secretariat informed the State party of the Committee's decision, adopted during its nineteenth session (14 February–9 March 2018), to conduct a confidential inquiry in accordance with article 6 (2) of the Optional Protocol into alleged grave or systematic violations of the rights of persons with disabilities to equal recognition before the law (article 12 of the Convention), to live independently and be included in the community (art. 19) and to equality and non-discrimination (art. 5), in line with the State party's general obligations under the Convention (art. 4).

7. On 14 June 2018, the State party accepted the Committee's request to conduct a confidential visit and designated a focal point to liaise with the secretariat.

8. From October 2018 to mid-January 2019, intense substantive and logistical preparations for the visit were made.

9. On 14 December 2018, the State party provided additional information as requested by the Committee.

10. The visit was conducted from 21 January to 1 February 2019. Two members of the Committee, supported by the secretariat, interacted with members of the National Assembly, magistrates of the Supreme Court, judges and staff of the National Office for the Judiciary, high-ranking officers of the Ministry of Human Capacities and the Ministry of Justice, government officers in charge of implementing social policies, directors of institutions, members of the national human

rights institution and the equality body, persons with disabilities in large- and small-scale institutions, self-advocates with disabilities, children with disabilities, relatives of persons with disabilities, representatives of the National Council on Disability, organizations of persons with disabilities, other civil society organizations, lawyers, social workers and academics. The Committee delegation visited institutions in the capital and in various counties. More than 200 individuals were interviewed, and approximately 2,300 pages of information were received.

11. The Committee welcomes the State party's cooperation throughout the confidential inquiry proceedings, including the information provided.

12. Pursuant to rule 83 of its rules of procedure, the Committee requested information from the European Union, which is also a party to the Convention.

### **III. Background and main legal and policy framework in the areas covered by the inquiry procedure**

13. The 2011 census identified 490,578 persons with disabilities, representing 4.9 per cent of the population. According to official figures, in 2018, 98,539 persons were institutionalized, of whom 24,553 were persons with disabilities. By the end of 2018, a total of 54,959 persons with disabilities were under guardianship, of whom 48,945 were disenfranchised of their voting rights.

14. During the communist era, paternalistic and medical models of disability were prevalent, a large number of persons with disabilities were under guardianship and social services available for persons with disabilities, particularly persons with intellectual or psychosocial disabilities, were mostly provided in large institutions located in rural and remote areas. From the 1990s, with the introduction of democracy and the liberal economy, measures were taken to reflect these political and economic changes in the social protection system. The State party has been a member of the European Union since 2004.

15. With respect to legal capacity, the Fundamental Law of Hungary (the Constitution), in force since 2012, recognizes the right of all persons to be the subjects of rights and prohibits discrimination on the basis of impairment (art. XV). However, it also refers to the disenfranchisement of persons with "limited mental capacity", through a court decision, allowing for the curtailment of their right to vote and to be elected (art. XXIII (6)). The Civil Code, amended in 2013, maintains guardianship, in the form of full or partial restriction of the capacity to act. Act CLV of 2013 introduced supported decision-making.

16. The primary objectives of Act XXVI of 1998 on the rights and equal opportunities of persons with disabilities (Equal Opportunities Act) are to promote equal opportunities for and the inclusion of persons with disabilities in society. The National Disability Programme (2015–2025) and Action Plan (2015–2018), with more than 80 specific measures, have been introduced for the implementation of the Act.

17. Act III of 1993 on social administration and social benefits (Social Act) is the main legislative framework on social services, which includes the provision of services to persons with disabilities. It distinguishes between basic social services, provided in the community, and specialized social services, provided in institutions. Institutions comprise a variety of types, from large- to small-scale. Small-scale institutions may take the form of flats (up to 6 people), group homes (up to 12 people) or living centres (up to 50 people). The situation of children with disabilities is regulated by the Social Act and by Act XXXI of 1997 on the protection of children and on the administration of guardianship (Child Protection Act).

18. An amendment introduced in 2010 to the Equal Opportunities Act provided for institutions with a capacity of more than 50 people to be replaced by small group homes. An amendment introduced in 2013 to the Social Act established the concept of "supported housing", a form of specialized social service or institution, whereby the provision of housing and other social services were organized separately.

19. In 2011, the State party launched a strategy to move persons with disabilities living in institutions of more than 50 people to small group homes. As a result, 655 persons with disabilities were moved to smaller residential settings. A second phase of this process, targeting 10,000 persons with disabilities, started in 2017 and is due to finish in 2036. Both phases rely mainly on the European Regional Development Fund, which has been used primarily to build smaller residential settings.

20. Austerity measures taken to address the financial crisis of 2008 resulted in the reduction of the budget allocation for social services for persons with disabilities. The pension system was overhauled in 2010 to encourage persons dependent on disability allowances to join the workforce. Many persons with disabilities lost their disability entitlements or had them reduced. According to official data, the amount of the public budget invested in institutions largely exceeds that invested in community-based services.

21. In addition to the constitutional prohibition of discrimination on the basis of impairment, Act CXXV of 2003 on equal treatment and promotion of equal opportunities (Equal Treatment Act) protects several groups of persons, including persons with disabilities, from discrimination, establishes the Equal Treatment Authority and describes the recourse available against acts of discrimination.

22. Despite numerous reforms, the medical and paternalistic models of disability still prevail in society and in disability-related policies and laws.

## IV. Findings of fact

### A. Equal recognition before the law (art. 12)

23. The Constitution recognizes the capacity of persons with disabilities to be rights holders. The Civil Code, as amended in 2013, distinguishes between the capacity to be a rights holder and the capacity to act, and, like the previous Code, authorizes placement under guardianship.

24. The capacity to act may be fully or partially restricted. Full restriction places persons under the decision-making power of a guardian in all areas of life. Partial restriction limits the capacity of a person with respect to specific areas of life, such as financial matters or health care, to the extent decided by a court.

25. According to official statistics, the number of persons with disabilities placed under guardianship has increased steadily from 54,656 in 2008 to 55,056 in 2017. During the same period, the number of persons with disabilities under full guardianship went from 32,687 to 30,735, while the number of persons with disabilities under partially restricted guardianship went from 19,135 to 24,212.

26. In 2013, when the amendments were adopted, it was foreseen that placement under full guardianship would be limited progressively and become exceptional. In 2017, however, after four years of implementation of these measures, the number of placements under full guardianship remained almost unchanged.

27. The 2013 reform envisaged that the partial restriction of the capacity to act would affect only some areas of decision-making as determined by a judge. In practice, however, in 2017, 14,745 persons under partial restriction of legal capacity had limited capacity to act in relation to all decision-making areas.

28. Placement under guardianship results from a judicial decision, following proceedings commonly triggered by the responsible authority – the Guardianship Authority – after a request from a relative of the person concerned.

29. Although judges hear the person against whom the proceedings are brought, assessing personal and environmental factors, the decisive factor for placing the person under guardianship is the medical assessment by court-appointed psychiatrists of the person's "mental capacity". This assessment includes review of records of mental health history. Modalities of assessment differ, resulting in discrepancies in outcomes. An initiative has been launched to harmonize different approaches through a protocol.

30. Although persons with disabilities may challenge placement under guardianship, information available indicates a very low rate of success in doing so. Legislation provides for mandatory review of guardianship every 5 years in cases of partially restricted guardianship and every 10 years in cases of placement under full guardianship. Official statistics reveal that guardianship was maintained in 80 per cent of the cases reviewed in 2014, 90 per cent in 2015, 90 per cent in 2016 and 89 per cent in 2017.

31. Relatives of the person placed under guardianship and professional guardians may be appointed as guardians. In 2007, according to official statistics, there were 787 professional guardians, in charge of 23,888 persons under their guardianship. The average number of persons per guardian was between 30 and 45.

32. Guardians based in district offices are available for four hours per week during office hours and over the phone the rest of the time. Guardians are supervised by the Guardianship Authority and are regularly trained by it, though information available indicates that curricula do not include training on the Convention or on the human rights model of disability. The Guardianship Authority deals with complaints against guardians at first and second instance. Claimants may address an independent administrative court only thereafter. Available information indicates a very low number of complaints submitted against guardians. The Equal Treatment Authority does not consider complaints by persons under guardianship.

33. Guardians may trigger the placement of persons with disabilities under full guardianship in institutions. They may also trigger the placement in institutions of persons under partially restricted guardianship, although in this case, the consent of the guardian and a legal statement by the person concerned are required. Nevertheless, available information indicates the common practice of placing persons who are under partially restricted guardianship in institutions based on the consent of their guardians only. According to official data, in 2016, 28,179 out of 57,039 persons under guardianship were institutionalized; in 2017, these figures were 28,395 and 57,983 respectively. Persons interviewed reported that their guardians visited them occasionally or once a month. Irrespective of the type of guardianship under which they are placed, persons with disabilities in institutions experience de facto curtailment of their capacity to act in almost all areas of life. Persons interviewed stated that they would prefer broader autonomy in decision-making but were denied it.

34. Magistrates of the Supreme Court, judges and legal practitioners consider placement under guardianship as a measure to protect persons with disabilities. The legal culture upholds guardianship and there is no will and no initiatives to remove it from legislation or in practice. As an example, in 2014, the Constitutional Court rejected a petition from the Office of the Commissioner for Fundamental Rights that challenged the constitutionality of placement under full guardianship.

35. Guardianship proceedings entail a separate assessment of the capacity of persons with disabilities to exercise their right to vote and to be elected. According to available information, persons with disabilities may be disenfranchised on the basis of impairment through an assessment of knowledge about national political processes. The number of persons with disabilities under fully restricted guardianship who have been disenfranchised remains almost stable, having gone from

28,494 in 2013 to 30,735 by the end of 2017. The number of persons with disabilities under partially restricted guardianship who were disenfranchised increased from 18,106 in 2013 to 24,212 by the end of 2017. In 2013, 59,956 out of 61,563 persons under guardianship were disenfranchised, and by the end of 2018, 48,945 out of 54,959.

36. Act CLV of 2013 regulates the supported decision-making regime, and provides that:

- (a) The regime is applicable only to persons who have a “minor decrease” in their “mental capacity”;
- (b) It may be offered by the Guardianship Authority to persons during guardianship proceedings, when the judge is not fully persuaded that the person should be placed under guardianship;
- (c) The Guardianship Authority appoints supporters;
- (d) The person concerned may reject the supporter offered;
- (e) Persons who have been guardians may be appointed as supporters;
- (f) A supporter may provide assistance to up to 30 persons, and in some cases up to 45 persons;
- (g) Persons under partially restricted guardianship may request the appointment of a supporter in other areas of life not restricted by placement under guardianship, and the supporter could be his/her guardian;
- (h) Training in the Convention is not a requirement to be a supporter;
- (i) Persons under this regime are restricted in the exercise of other rights, such as parental rights, and are excluded from holding certain public positions.

37. A total of 149 persons in 2016 and 167 persons in 2017 were placed under the supported decision-making regime. The regime is not well known among persons with disabilities and legal practitioners. Other forms of support for exercising legal capacity are not officially available to persons with disabilities.

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

### **1. Lack of choice and disability stereotypes**

38. Persons with disabilities, particularly persons with intellectual or psychosocial disabilities, continue to face barriers in the exercise of their freedom of choice, autonomy and self-determination. Because of prevalent disability stereotypes, they continue to be perceived as being “unfit” to live independently and to be included in the community. Medical and paternalistic models of disability prevail, legitimizing institutionalization for supposed medical, developmental, therapeutic and rehabilitation purposes. The Social Act establishes that persons whose education, training, employment or care is possible only in an institution may be admitted to a care institution for persons with disabilities, following an assessment of medical records and a so-called “complex needs assessment” of the person concerned.

39. Despite amendments to the Social Act concerning support services, the individual right to live independently and to be included in the community is yet to be recognized. The Government has translated the Convention and some of the Committee’s general comments into Hungarian, and has trained public officials working with persons with disabilities. Nonetheless, attitudinal barriers continue to undermine the effectiveness of such efforts, preventing the inclusion of persons with disabilities in society.

### **2. Support services**

40. Basic social services established in the Social Act and its amendments include in-home support, community-based support for persons with psychosocial disabilities, home assistance using an alarm device, a support service for persons considered “in social need”, day care, temporary respite care for the families of persons with disabilities and an information technology remote service system supporting persons with disabilities in their everyday life. Official statistics indicate that in 2018, 25,962 persons with disabilities were receiving support in the form of basic social services.

41. Available sources indicated that in-home support is provided only for one to two hours per weekday during working hours. Only basic services, such as personal hygiene assistance, are provided. Providers of in-home support services establish the fees and conditions, restricting the individual choice and preferences of persons with disabilities.

42. The support service is aimed at facilitating access for persons with disabilities to public services and assistance within their homes. Available sources indicate that the support service targets mainly persons requiring higher levels of support who are considered “severely disabled” and “in social need”. Official information shows that in 2015, only 12,500 persons with disabilities out of 144,000 eligible persons had access to this type of support. Its coverage increased slightly in 2017, reaching 13,306 persons. Although a transportation service is provided, it is limited to working hours until 4 p.m. following individual assessments of impairment.

43. Day care is provided in institutions to those over the age of 3 years who are persons with disabilities considered to be “partially or not self-sufficient” owing to impairment, persons with disabilities who require someone else’s assistance, and persons with autism. In 2018, 12,007 persons with disabilities attended day-care centres, which are mainly based in major

cities. Municipalities of over 10,000 inhabitants are officially required to establish day-care centres, but only a few have done so. Available sources stressed the barriers preventing access to day care, such as unaffordable fees for persons with disabilities with low income, expensive transportation costs and a five-hour daily limit in the case of persons with disabilities whose relatives act as their carers.

44. Women heads of household raising children with disabilities face major challenges to obtain places for their children in day-care centres and lengthy enrolment processes. Available sources indicated that 70 to 80 per cent of parents of children with disabilities are willing to support their children at home. However, the limited respite support for them and the lack of future life options in the community for their children appear to increase their use of institutions.

45. Persons with disabilities are also entitled to cash support, including a disability allowance, and an annuity for blind persons, the latter covering only persons who qualified before 1 July 2001. Workers who acquired an impairment during the course of employment are entitled to an invalidity allowance and those with reduced working ability are entitled to an invalidity benefit or a “rehabilitation benefit”. Parents and relatives of persons with disabilities receive an allowance for the care of children with disabilities at home, introduced in 2019: as of November 2019, 21,700 parents and relatives of persons with disabilities were receiving this allowance. In addition, legislation provides for a care allowance for adults providing home care for a relative with “severe disabilities” or a child with a long-term illness. Financial support is available for the purchase of mobility equipment for persons with “severe physical disabilities”.

46. The disability allowance covers persons requiring high levels of support or long-term assistance, regardless of their level of income or position in the labour market. Reforms to this entitlement in early 2014 meant that recipients of the disability allowance had to undergo an assessment based on functional biomedical criteria. As a consequence, fewer individuals currently receive it. Similarly, parents in full-time employment or retired parents with a full retirement pension are not eligible to receive the care allowance, which affects their level of income. Approximately 12,000 persons receive monthly care allowances ranging from 32,600 to 58,680 Hungarian forint (103 to 186 euros), which is less than the minimum wage.

47. Support for independent living continues to have very limited coverage, and is unevenly developed across regions, particularly in rural areas. Basic social services are not tailored to the specific individual requirements of persons concerned. Persons with disabilities requiring high levels of support and persons with autism appear to face major barriers in access to appropriate support in the community, putting them at risk of institutionalization. The shortage of personnel providing support and the insufficient public financing of basic social services are particularly worrying.

48. Personal budgets and personal assistance are neither available nor systematically implemented. Support provided by family members continues to prevail owing to the limited coverage and strict eligibility criteria for access to basic social support. Persons from low-income families and female-headed households are particularly reliant on conditional cash transfers, but the information that they receive regarding such support is scarce or in inaccessible formats.

49. Current financial entitlements related to disability are insufficient to cover the extra costs of disability-related expenses, and are still attached to medical assessments. Available sources indicate that the standard of living for persons with disabilities has declined, their basic essentials are not met and they are at a higher risk than the rest of the population of facing poverty and institutionalization.

50. Current support schemes are insufficient for ensuring full inclusion of persons with disabilities in society, pushing them to seek support either in families or, in some cases, in institutions. A significant proportion of public budgetary allocations still go on the latter.

### **3. Underdeveloped mainstream community services and barriers in access to work and employment**

51. Available sources indicate limited accessible housing, slow progress on inclusive education, including transportation, limited provision of health care and lack of inclusion in the open labour market for persons with disabilities. There is no evidence of clear goals at any level of government, particularly at the local level and in rural areas, to invest systematically in community-based services or in the creation of an inclusive open labour market.

#### **(a) Lack of accessible housing in the community**

52. Persons with disabilities have little knowledge about available social housing and access requirements, increasing the risk for some of becoming homeless. Available sources indicate a lack of accessible and affordable housing, including social housing, and an absence of programmes to adapt existing flats and to rent or purchase accessible housing in the community. The Committee heard testimonies from persons with disabilities who had succeeded in finding accommodation in their communities, but only after having experienced institutionalization. Existing non-refundable subsidies to support accessibility in housing construction or home-buying are available only for persons with reduced mobility. Persons with intellectual or psychosocial disabilities lack support for independent housing outside institutions.

#### **(b) Barriers in access to inclusive education**

53. Official data indicate that 72 per cent of children with disabilities were enrolled in mainstream education in the 2018/19 academic year. However, special education persists, and legislation allows for the establishment of segregated schools and segregated classes within mainstream schools for children with disabilities. Children requiring high levels of support in special education receive 20 hours of education per week, half the amount received by students in mainstream schools. Segregated schools are prevalent nationwide. Support in mainstream education is provided only to certain groups, such as

persons assessed to have “mild intellectual disabilities” or persons with hearing impairments, the latter of whom, for example, are eligible for 120 hours of interpretation per year. According to testimonies, school transportation is lacking or not fully accessible.

### **(c)Limited provision of health care**

54.The State party indicated that public health-care services were available, including access to general practitioners and specialized medical services. The Ministry of Human Capacities launched the “Healthy Hungary 2014–2020” strategy, aimed at extending and improving access to public health-care services. Despite such measures, witnesses stressed the inaccessibility of most health-care facilities, the limited number of pharmacies, the few opportunities to receive mental health support outside of hospitals, and the fact that the social insurance excludes psychotherapy. Another gap in health services is the lack of awareness of disability among health-care professionals.

### **(d)Lack of inclusion in the open labour market**

55.Persons with disabilities face unemployment and barriers in access to the open labour market. Sheltered employment persists in legislation under the form of “accredited employment” in a “protected environment” and some sheltered workshops operate attached to institutions. Persons with disabilities in sheltered workshops pointed out that they were willing and able to use their skills in the open labour market. The State party indicated that measures such as tax relief and wage subsidies had resulted in 9,640 persons with disabilities joining the open labour market in the period from 2011 to 2018. Nevertheless, public funding is still allocated to segregated employment.

56.The minimum wage also applies to employees with disabilities. Available sources indicate that reasonable accommodation is recognized in employment but provided to a limited extent only. Vocational training for persons with disabilities is scarce and irregular. Introduced in 2017, “developmental employment” is available in institutional settings rather than in the open labour market, and may function as a form of work therapy rather than a means of improving opportunities for access to jobs.

## **4.Persistent prevalence of institutionalization**

57.According to official figures, in 2018, there were 98,539 individuals in institutions nationally. Disability is one of the grounds for institutionalization, besides age, health condition and ethnic origin: institutions receive children, older persons, persons living with addictions, and Roma children and adults. Persons with disabilities are the second largest group, with 24,553 still institutionalized in 2018 in nursing and care homes and rehabilitation institutions.

58.Persons with intellectual or psychosocial disabilities are overrepresented in institutions, and are at a heightened risk of institutionalization. Several institutions are located in remote areas, including in border regions and on the outskirts of villages. Government officials acknowledged long waiting lists for admittance into institutions, including large-scale institutions, indicating lack of feasibility to implement a moratorium on institutionalization owing to limited financial resources to provide an alternative.

59.Institutionalization entails isolation from the community, and prevents individuals from exercising choice concerning their lives, bodies, personal space and the way in which they spend their time. The Committee observed a lack of privacy because of the use of open toilets, shared bedrooms, shared blankets, and continuous surveillance. Overmedication and violations of sexual and reproductive health and rights, including non-consensual sterilization, were also observed. Institutions do not provide persons with disabilities with individualized support or human development support for independent living.

60.The Committee observed prevalent inhuman conditions in institutions, where persons with disabilities were segregated and discriminated against on the basis of impairment. Monitoring reports by the Office of the Commissioner for Fundamental Rights, acknowledged by the Government, highlighted unsuitable conditions affecting persons in institutions. The Commissioner has reported on the prevalence of poor conditions, violence and ill-treatment experienced by children and young persons with disabilities in institutions.

## **5.Strategy for moving persons with disabilities out of large-scale institutions**

61.The first phase of the strategy to move persons with disabilities and other persons institutionalized out of large-scale institutions concerned mainly persons with disabilities considered to have “mild” impairments and/or “limited” communication skills, and the second phase will target persons requiring high levels of support. Besides the 10,000 persons targeted, there is no information available on plans for the remaining 14,000 persons with disabilities still institutionalized, including children with disabilities in adult institutions, children with disabilities in children’s homes and older persons with disabilities. Psychiatric hospitals are not covered by this programme.

62.“Supported housing” is the main component of the strategy. The Social Act defines the elements of supported housing, including accommodation, support for independent living and assistance with access to public services. Under the supported housing system, the provision of housing is organized separately from other social services under the concept of the “social services ring”. This concept includes, inter alia, supervision, food, care, transportation and assistance with household tasks, and institutions are transformed into social service hubs providing support for former residents.

63. Supported housing is not being developed in the capital city. The Committee observed supported housing located on the outskirts of small and remote villages, where mainstream community services, including transport, were underdeveloped or non-existent. It also observed that persons not considered eligible to move to supported housing remained in large institutions, which were also admitting new residents.

64. Eligibility for transfer to supported housing is based on a so-called “complex individual needs assessment” conducted by two professionals, including personnel of institutions. While assessments are intended to identify support requirements, medical status, capacity for living independently and the degree of impairment play a major role in the process of determining eligibility. According to official sources, the Human Resource Development Operational Programme, on the development of infrastructure to replace large-scale institutions with small-scale institutions, involves 29 institutions from which 2,592 persons with disabilities are being transferred. Under this project, 38.8 per cent are women and 61.2 per cent are men.

65. Directors of institutions hold the main responsibility for implementing the strategy. They confirmed their role in submitting projects and plans under the strategy, identifying locations for establishing supported housing, and assessing the community services available. Directors are also responsible for training residents and preparing them for living in supported housing. The Government indicated that staff in institutions and persons with disabilities were trained with the support of organizations of persons with disabilities. Witnesses stated, however, that the training was insufficient and limited in terms of building capacities for independent living, and stopped once the individual concerned had moved.

## **6. Lack of choice and limited autonomy in supported housing**

66. The main features of institutional settings continue to prevail in supported housing. Persons with disabilities continue to experience disempowerment and restrictions on their autonomy to make their own choices. They remain dependent on large institutions, including in terms of access to food and health care. Institutions charge them a large percentage of their income, thus preventing them from being economically independent. The majority of persons moved into supported housing remain under guardianship, which amplifies the restrictions on their autonomy.

67. Supported housing remains under the control and management of the directors and staff of institutions. They have free access to the houses, retain the management of the premises, pay the bills, ensure discipline and order, manage conflict among residents, monitor and follow up on individual decisions, including with respect to interpersonal relationships among residents, manage their access to health services, control medical records, conduct surveillance and exercise general control.

68. The lack of self-determination and restrictions on private life are a common feature in so-called “supported housing”. The design of the houses and the provision of basic furniture are matters decided by the institution. Persons with disabilities have no say in the choice of house to which they move. They are required to share their rooms, although some margin is reported with respect to choosing their room-mates. Houses are governed by internal rules not decided by persons with disabilities. For matters ranging from inviting guests and engaging in outside activities to owning a pet, they require prior authorization. Alcoholic beverages are prohibited. Couples, when allowed to move together, have limited possibilities for intimacy. Although persons with disabilities may leave supported housing, they have no real options to resettle as many of them have severed ties with their families or communities. Supported housing thereby becomes their new permanent living arrangement.

69. Individualized support is insufficiently developed. Large-scale institutions continue to be the main service providers for residents of supported housing. They return to the institutions on a daily basis to participate in sheltered workshops, receive food supplies, use health services and, to some extent, participate in leisure activities.

70. The implementation of the concept of the “social services ring” has not, in the majority of the cases, brought about the development of accessible mainstream services in the community. It was observed that the prevailing attitude of the authorities involved with the strategy to move persons with disabilities and other persons institutionalized out of large-scale institutions was to favour maintaining the status quo. Local authorities are often not concerned about developing accessible community services for residents of supported housing, and the strategy’s implementation has faced resistance in some communities.

71. It was observed that information about the implementation, monitoring and evaluation of the strategy was not readily and regularly available and accessible to persons with disabilities concerned.

72. Official statistics reveal that the public budget allocation for persons with disabilities in the social sector prioritizes the provision of specialized social services in institutions, is funded primarily by the European structural and investment funds, and is not being used to develop community-based support for independent living in compliance with article 19 of the Convention.

73. Overall, and despite the commitment expressed by authorities, the shortcomings of the system of basic social services, the persistence of a culture of institutionalization – reflected in budget allocations and the expansion and perpetuation of institutionalization, including through supported housing, the refurbishment of institutions, the existence of waiting lists for places and the lack of a moratorium on placement in institutions – and the prevailing stigmas indicate patterns not consistent with the right to live independently and to be included in the community.

## **C. Equality and non-discrimination (art. 5)**

74.The information available indicates patterns of structural discrimination, affecting, in particular, persons with intellectual or psychosocial disabilities, children with disabilities, women with disabilities and older persons with disabilities, and discrimination by association.

## **1.Persons with intellectual or psychosocial disabilities**

75.Persons with intellectual or psychosocial disabilities are subjected to direct discrimination by law, which allows for their placement under guardianship, on the basis of actual or perceived diminished “mental capacity”, and for their involuntary institutionalization. When placed both under guardianship and in an institution, the combined effect amplifies their vulnerability and perpetuates their segregation and isolation. Official statistics indicate that the placement of persons – including children, women and older persons – with intellectual or psychosocial disabilities under specialized social services in institutions is prevalent.

76.Under the provisions of Act No. CXXIII of 2015 on primary health care, persons with psychosocial disabilities may also be subjected to compulsory psychiatric treatment following a medical assessment of their perceived dangerousness. They are categorized as “psychiatric patients”, entailing their institutionalization in psychiatric hospitals, nursing and care homes and rehabilitation institutions.

77.Persons with disabilities who are institutionalized are exposed to mechanical, physical chemical and multiple forms of restraint, and other forms of ill-treatment.

78.Persons with psychosocial disabilities and persons with autism face significant barriers in access to mainstream health care. The primary response of medical professionals is often coercive, including involuntary treatment, isolation and medication in absence of free and informed consent.

79.Measures taken to overcome attitudinal barriers appear not to have had a significant deterrent effect. Negative stereotyping and stigmas are still widespread against persons with intellectual or psychosocial disabilities, who continue to face barriers in access to employment, mainstream inclusive education, credit and financial resources and other areas.

## **2. Children with disabilities**

80.The Child Protection Act, while promoting the placement of children under the age of 12 years in foster families, makes an exception in the case of children with disabilities, who may be institutionalized on the basis of disability.

81.Official statistics indicate that placement of children in foster families has increased in recent years compared to placement in residential institutions. However, in the case of children with disabilities, the sources indicate that they are commonly placed in institutions rather than in foster families. Available information indicate poor or limited skills among foster families to take care of children with disabilities. Similarly, information indicates the prevalence of negative stereotypes about adopting children with disabilities. The implementation of the current policy framework has not led to the deinstitutionalization of children with disabilities.

82.The best interests of the child continues to be misinterpreted in society and among professionals dealing with children with disabilities as justifying the institutionalization of children with disabilities. Official statistics indicate that in 2017, 33 per cent of children in residential institutions were children with disabilities, almost six times the percentage of persons with disabilities among the general population. Children with disabilities requiring higher levels of support are at a higher risk of institutionalization, owing to the insufficient support available for living in the community and the limited coverage of community services provided for the general population.

83.It was observed that children with disabilities continued to live in children’s residential institutions when they became adults. Reliable sources also indicate that in 2019 almost 800 children were placed in institutions inhabited mainly by adults.

84.Despite official commitment to increase the placement of children in foster families, public funding, including from the European Regional Development Fund, has been used to refurbish children’s residential institutions.

85.Children requiring high levels of support receive special education, called “developmental education”. They are taught at home or in institutions, as provided for in Act CXC of 2011 on national public education (National Public Education Act). In practice, they are excluded from mainstream schools: a third are enrolled in special schools and receive a maximum 20 hours of education per week, while those who are institutionalized receive up to 6 hours on average per week. Children with autism lack adequate support and reasonable accommodation, experience bullying and physical abuse and often drop out owing to the lack of an inclusive educational environment, usually having to find places in fee-paying private education.

## **3.Women with disabilities**

86.There is a general lack of understanding about the intersectionality of gender and disability in policy implementation. This lack is indicated by the very limited availability of statistics on disability that are disaggregated by sex, the lack of awareness in society and among public officials about the rights of women and girls with disabilities, and the lack of gender-responsive measures related to supported decision-making or support for living independently.

87.The Committee interviewed women and girls with disabilities in institutions and observed that institutionalized women, including in small-scale institutions, were more likely to experience gender based-violence, including in the form of forced



contraception, forced abortion, and restrictions in the exercise of their sexual and reproductive health and rights and of their parental responsibilities.

#### **4.Older persons with disabilities**

88.The Committee observed that the largest group among persons who are institutionalized are older persons with disabilities, including older persons with psychosocial disabilities. Older persons with disabilities are often in large-scale institutions, although the Committee also met those in small-scale institutions, including in supported housing units. There is limited understanding about the intersectionality of age and disability, and stigmas against older persons with disabilities still prevails.

#### **5.Discrimination by association**

89.Available information indicates a prevalence of discrimination by association against mothers of children with disabilities, who, owing to scarce social support and limited income, experience financial hardship in covering their children's disability-related expenses. They often face the dilemma between allocating additional time to care responsibilities, at the risk of losing their jobs, or placing their children in institutions. They fear that in their absence, the only option for their children would be institutionalization.

#### **D.General obligations (art. 4)**

90.Several organizations of persons with disabilities, including the umbrella National Council of Organizations of Persons with Disabilities, are members of the National Council on Disability, chaired by the State Secretary for Social Issues and Social Inclusion.In 2013, by a decree, authorities redefined the National Council on Disability as having a consultative role with respect to the National Disability Programme.

91.Available information indicates that organizations of persons with disabilities receiving public funding are less inclined to express openly dissenting opinions about government policies. Some grass-roots organizations of persons with disabilities are more open in this regard, though they have limited capacity to influence decision-making processes.

92.In November 2018, after the inquiry procedure had begun, some national organizations of persons with disabilities represented in the National Council of Organizations of Persons with Disabilities signed a partnership agreement with the Government aimed at reviewing the strategy for the transition from large-scale institutions. However, grass-roots organizations and the persons concerned do not appear to have been meaningfully involved.

93.It was observed that information about the implementation of policies, including the strategy for the transition, was not regularly disseminated or fully accessible to persons with disabilities.

94.The Committee received reports that some civil society organizations had experienced reprisals for expressing critical views about governmental disability-related policies, such as restrictions in their independent monitoring of social services for persons with disabilities, including institutions.

95.Although different State authorities have conducted training on the rights of persons with disabilities, sometimes in partnership with organizations of persons with disabilities, the State party lacks a comprehensive action plan with goals, funding, timelines, indicators, benchmarks and monitoring activities for the continuous promotion of awareness-raising regarding the Convention and the human rights model of disability. Initiatives with a significant impact on the removal of attitudinal barriers, prejudices and stereotypes against persons with disabilities have yet to be undertaken.

96.Various State party authorities collect data on persons with disabilities. Notwithstanding a microcensus and related surveys conducted in 2016 by the Hungarian Central Statistical Office, information collected at the sectoral level is not always consistent and is even contradictory, is rarely disaggregated and is not often readily available or accessible to persons with disabilities.

97.The effectiveness of remedies against discrimination is limited. The denial of reasonable accommodation is not recognized in legislation as constituting prohibited discrimination – except in the area of employment – nor have multiple and intersectional discrimination been sufficiently addressed by the State authorities. Although the State authorities assert that a system of remedies is available to persons with disabilities, remedies for challenging the placement of persons with disabilities under guardianship and in institutions are largely ineffective and do not have a deterrent effect. Recourse to the Office of the Commissioner for Fundamental Rights has, however, made visible some infringements of the rights of persons with disabilities.

### **V.Legal findings**

#### **A.Violations of rights under the Convention**

98.Pursuant to article 12 of the Convention and in view of general comment No. 1 (2014) on equal recognition before the law, States parties should reaffirm the right of persons with disabilities to equal recognition before the law. They should repeal legislation, policies and practices of substituted decision-making and implement supported decision-making regimes, which are respectful of the autonomy, will, preferences and rights of persons with disabilities. They should repeal laws that

conflate legal capacity and mental capacity and restore the legal capacity, including the capacity to act, of all persons with disabilities, and abolish the institutionalization of persons with disabilities on grounds of impairment.

99. The Committee finds the following violations of article 12:

- (a) The Civil Code continues to allow the full or partial restriction of the capacity to act of persons with disabilities on the basis of impairment;
- (b) As of 2017, 55,056 persons with disabilities were restricted in their capacity to act. A total of 30,735 were fully restricted and 24,212 partially restricted; 14,745 of the latter were restricted in all areas of life, despite legislation providing that partial restriction affects only specific areas of life;
- (c) The number of persons with disabilities under guardianship has continued to rise since the State party's ratification of the Convention, with an increase of 14 per cent since 2008;
- (d) The Constitution permits the disenfranchisement of persons with intellectual or psychosocial disabilities; by the end of 2018, 48,945 persons with disabilities were denied their right to vote and to be elected;
- (e) Judicial procedures result in the deprivation of persons with disabilities of their capacity to act, and placement under guardianship is determined primarily on the basis of a medical assessment of the person concerned;
- (f) Judicial procedures, including mandatory reviews of guardianship, very rarely result in persons with disabilities having their capacity to act restored;
- (g) The system of supported decision-making established in Act CLV of 2013 remains anchored in substituted decision-making, and fails to provide persons with disabilities with support in the exercise of their legal capacity in accordance with the Convention;
- (h) The Constitutional Court ruled in 2014 that guardianship is a measure for the protection of persons with disabilities under the Convention. There is no intention to dismantle the guardianship system and its discriminatory effects.

100. Pursuant to article 19 of the Convention, and in view of general comment No. 5 (2017) on living independently and being included in the community, States parties should ensure the right of persons with disabilities to live independently in the community and to exercise their right to make choices, in particular where and with whom they live, on an equal basis with others. States parties should eliminate all forms of guardianship that restrict the exercise of choice concerning living arrangements, and ensure inclusion in the community by combating all forms of segregation, isolation and institutionalization on the basis of impairment. Living independently and being included in the community precludes life in any type of institution, from small-scale group homes to large-scale institutions. Persons with disabilities should have access to a range of individualized support. States parties should ensure access for all persons with disabilities to accessible mainstream services in the community. States parties should respect the minimum core elements of article 19.

101. The Committee finds the following violations of article 19:

- (a) The State party's legislation does not explicitly recognize the right of persons with disabilities to live independently and be included in the community. Prevailing practices show the persistence of medical and paternalistic models of disability, entailing the institutionalization of persons with disabilities and their de facto exclusion from the community;
- (b) A large number of persons with disabilities remain under guardianship, preventing them, in practice, from exercising without discrimination their right to choose their place of residence and where and with whom they live;
- (c) The insufficient development of support in the community for living independently prevents persons with disabilities from exercising their freedom of choice;
- (d) A large number of persons with disabilities continue to be in large- or small-scale institutions, including in so-called supported housing and group homes, and remain under guardianship;
- (e) Institutionalization of persons with disabilities is decided by substitute decision makers;
- (f) The strategy of moving persons with disabilities from large- to small-scale institutions perpetuates and expands institutionalization, and there are no measures in place to prevent their institutionalization from extending any further;
- (g) Public funds, including funding from the European structural and investment funds, continue to be invested in building, renovating and expanding large- and small-scale institutions, thus removing resources for support for independent living and the development of accessible, community-based services that foster inclusion;
- (h) Individualized support for persons with disabilities is limited in range, scope and geographic distribution, is narrowly defined, is mainly provided in institutions, remains underdeveloped and is largely ineffective. Personal assistance is not available to all persons with disabilities and is insufficiently developed under the current social schemes;
- (i) Public policies on education, health, employment and housing do not consistently and effectively promote independent living and inclusion in the community for persons with disabilities;

(j) Models and practices of service provision, especially in rural and remote areas, continue to segregate persons with disabilities through sheltered employment, segregated education and limited access to social housing;

(k) Insufficient measures have been taken to ensure the accessibility of public services and the provision of reasonable accommodation upon request.

102. Pursuant to articles 4 (1) and 5 of the Convention and in view of general comment No. 6 (2018) on equality and non-discrimination, States parties should strive for inclusive equality, guarantee to persons with disabilities equal protection against discrimination on all grounds and refrain from engaging in any act or practice which results in discrimination, including direct and indirect discrimination, discrimination by association and denial of reasonable accommodation. States parties should also prevent and sanction discrimination by private actors. Remedies against discrimination should be available and effective.

103. The Committee finds, in conjunction with the aforementioned findings under articles 12 and 19, the following violations of articles 4 (1) and 5:

(a) Persons with intellectual or psychosocial disabilities are largely overrepresented in institutions – representing 25 per cent of the institutionalized population – in comparison with the percentage of persons with disabilities in the total population;

(b) Placement under guardianship and the restriction of the capacity to act constitute direct discrimination targeting persons with intellectual or psychosocial disabilities;

(c) The law directly discriminates against children with disabilities under 12 years of age by allowing institutionalization on the basis of impairment;

(d) Hundreds of children with disabilities remain institutionalized alongside adults, in the absence of plans to ensure their right to family life;

(e) Children with disabilities are underrepresented among children in foster families;

(f) Children with disabilities requiring high levels of support are overrepresented in segregated education;

(g) Women with disabilities, particularly those who are under guardianship and institutionalized, including those in supported housing, are exposed to gender-based violence, including violations of sexual and reproductive rights, such as forced contraception and forced abortion. There is lack of evidence that gender equality is mainstreamed into disability policies;

(h) Mothers of persons with disabilities face discrimination by association. They often provide support to their children with disabilities alone and without sufficient income or social security schemes, or in some cases send their children to institutions;

(i) Older persons with disabilities often experience multiple and intersecting discrimination on the basis of their age and impairment, and are overrepresented in institutions.

104. Pursuant to article 4 of the Convention, States parties should promote the training of professionals, including judicial officers, and staff working with persons with disabilities in the rights recognized in the Convention. In view of general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, States parties should closely consult with and actively involve persons with disabilities, through their representative organizations, in measures to implement the Convention and in decision-making processes, especially concerning issues relating to persons with disabilities. This general obligation includes ensuring a transparent consultation process, meaningful dialogue, provision of accessible information, early and continuous involvement of organizations of persons with disabilities, due weight to their opinion, awareness-raising, regulatory frameworks and procedures, monitoring, independent participation and ultimately the empowerment of persons with disabilities through their representative organizations in public decision-making.

105. The Committee finds, in conjunction with the aforementioned findings under articles 12, 19 and 5, the following violations of article 4:

(a) Lack of comprehensive and systematic collection and dissemination of disaggregated data on the situation of all persons with disabilities across the State party;

(b) Lack of independence of the National Council on Disability, which is chaired by a representative of the Government and whose members are dependent on government subsidies;

(c) Persons with disabilities who are to be or who have been transferred from large-scale institutions are not meaningfully involved in the related decisions or in independent monitoring after their transfer;

(d) Families of and professionals and staff working with persons with disabilities lack awareness of and do not receive regular training on the human rights model of disability and the Convention.

## **B. Grave or systematic nature of the violations**

106.Pursuant to article 6 of the Optional Protocol and rule 82 of its rules of procedure, the Committee must assess whether the violations of rights are of a grave or systematic nature.

107.The Committee considers violations to be “grave” if they are likely to produce substantial harm to victims, leading to further segregation, isolation or impoverishment. A determination regarding the gravity of violations must take into account the scale, prevalence, nature and impact of the violations found.The Committee finds grave violations of rights under the Convention, and considers that the system of guardianship and institutionalization profoundly affect the lives of a substantial number of persons with disabilities, particularly discriminating against persons with intellectual or psychosocial disabilities and perpetuating segregation and isolation from society.

108.The term “systematic” refers to the organized nature of the acts leading to the violations and improbability of their random occurrence.The Committee has indicated that the existence of a legislative framework, policies and practices that, by intent or through impact, adversely or disproportionately affect persons with disabilities constitute systematic violations of the Convention. The Committee has also stressed that discriminatory or structural patterns against persons with disabilities on the basis of impairment constitute systematic violations. The Committee finds systematic violations of the rights of persons with disabilities referred to in this inquiry report, and considers that they are widespread and habitual, resulting from deliberate patterns of structural discrimination entrenched in legislation, policies, plans and practices, including resource allocation.

109.The Committee considers the violations of the rights of children with disabilities to be both grave and systematic, on account of (a) their extremely harmful and discriminatory effects, (b) the fact that they perpetuate children’s marginalization and vulnerability by negatively affecting their lives, security, best interests, family life, integrity, education, human development and well-being, and (c) they result from the combined effect and cumulative impact of laws, policies, plans and prevailing disability-based stereotypes.

## **VI.Recommendations**

### **A.Equal recognition before the law (art. 12)**

110.The Committee recommends that the State party, guided by the Committee’s general comment No. 1:

(a)Abolish the provisions of the Civil Code providing for the full or partial restriction of the capacity to act of persons with disabilities;

(b)Restore the capacity to act of all persons with disabilities, including those in any form of institutional setting;

(c)Move expeditiously to adopt a system of supported decision-making that is fully compliant with the Convention, including by modifying the current system of supported decision-making in order to:

(i)Allow all persons with disabilities to have access to supported decision-making, in accordance with the Convention;

(ii) Eliminate any role of the Guardianship Authority in the appointment, supervision and training of supporters;

(iii)Respect the right, autonomy, will and preferences of persons with disabilities to choose the forms of support that they require, including the right to accept, refuse, change or terminate the support if they so decide;

(iv)Ensure that persons providing support are duly trained with respect to article 12 of the Convention and that any eligibility criteria to become a supporter are in compliance with the Convention;

(d)Work with organizations of persons with disabilities, and particularly grass-roots organizations of persons with intellectual or psychosocial disabilities, in developing tools for supporting the exercise of legal capacity, including by establishing a repository of good practices on supported decision-making;

(e)Implement continuous training, specifically targeting social, health and educational professionals, legal practitioners, magistrates, judges and family members, on the right of persons with disabilities to equal recognition before the law;

(f)Restore the rights of all persons with disabilities to vote and be elected, including by ensuring that all persons with disabilities are registered in electoral registries and fully participate in elections.

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

#### **1.Equal right to live in the community, with choices equal to others**

111.The Committee recommends that the State party, guided by general comment No. 5:

(a)Repeal sections 69 and 70 of the Social Act, on “specialized social care”, so that no person with disabilities may be institutionalized on the grounds of impairment;

(b)Recognize the right of all persons with disabilities to live independently and be included in the community as an individual and directly enforceable right;

(c) Review legislation, public policies and practices regarding support for independent living and inclusion in the community to make them fully compliant with the human rights model of disability and respectful of the rights of persons with disabilities to live in the community and to choose their place of residence without discrimination, and of their rights to individual autonomy, will and preferences;

(d) With the full involvement of persons with disabilities, through their representative organizations, strengthen national plans, with sufficient human, technical and financial resources, a reasonable and defined timeline and independent monitoring, for developing independent living schemes that respect the autonomy of persons with disabilities and their right to choose where and with whom they live.

## **2. Access to support**

112. The Committee recommends that the State party, guided by general comment No. 5:

(a) Develop a system of support for independent living that includes a range of individualized support and personal assistance for persons with disabilities in the community, outside institutional settings, and allocate appropriate human, financial and technical resources to this aim;

(b) Ensure that support for independent living is human rights-compliant, respects the autonomy, will and preferences of persons with disabilities, and is anchored in the community;

(c) Allocate sufficient resources to the development of self-managed personal assistance;

(d) Involve persons with disabilities, through their representative organizations, in designing and implementing support for inclusion in the community;

(e) Reorient the investment of public funds – including the way in which funding from the European structural and investment funds is allocated – from institutions to support in the community by accelerating the development of a full range of in-home and other community services offering support in daily life, including personal assistance, and other forms of supported decision-making;

(f) Review the system of disability entitlements by ensuring adequate social protection of persons with disabilities and their families without discrimination, particularly in relation to the recognition of disability-related expenses, by adapting, expanding and reviewing periodically the social protection floors for persons with disabilities.

## **3. Access to community services and facilities for the general population**

113. The Committee recommends that the State party, guided by general comment No. 5:

(a) Mainstream disability inclusion into general public policies related to education, health, employment and housing;

(b) Revise its understanding of community-based services to exclude from this concept any form of refurbishment of institutions or group homes or construction of supported housing;

(c) End the segregation of persons with disabilities in education, particularly children requiring high levels of support, and adopt a strategy to implement inclusive education at all levels of education, in line with general comment No. 4 (2016) on the right to inclusive education;

(d) With the participation of organizations of persons with disabilities, expeditiously adopt a comprehensive strategy to ensure employment and income-generation opportunities for persons with disabilities in the open labour market, without discrimination, and move away from sheltered employment;

(e) Ensure that reasonable accommodation is provided to persons with disabilities in employment and in all other areas of life.

## **4. Ending institutionalization**

114. The Committee recommends that the State party, guided by general comment No. 5:

(a) Prevent any further placement of persons with disabilities in any institutional settings by halting programmes that develop institutions including supported housing, and provide reparations for persons with disabilities seeking redress for their institutionalization;

(b) Amend the current strategy of moving persons with disabilities from large-scale institutions into small-scale institutions (supported housing) by removing all elements of institutionalization. In this regard, the State party should:

(i) Fully respect the rights of persons with disabilities to choose where and with whom they live and to have access to individualized support for independent living, including the choice to refuse any particular living arrangement;

(ii) Restore the capacity to act of all persons who have been institutionalized, including those moved to supported housing;

(iii) Reorient the investments of human, financial and technical resources from supported housing and other institutional settings to the development and availability of accessible housing options for persons with disabilities in the community, in all regions of the country, and excluding any form of group living arrangement;

(iv) Eliminate all forms of control and surveillance of residents in supported housing, and ensure their autonomy, freedom of choice and privacy;

(v) Ensure that implementation of the “social services ring” system is no longer linked to institutions but promotes independent living and full inclusion and participation in the community;

(vi) Take measures to ensure that persons with disabilities who are currently in sheltered workshops managed by institutions progressively gain access to the open labour market;

(vii) Ensure that the use of funding from the European structural and investment funds is always in line with the Convention, and that under no circumstances such funding is used to facilitate or maintain the segregation of persons with disabilities, including through investment in the construction, refurbishment, expansion or maintenance of any institutions, regardless of size, and through training or employment of staff in institutions;

(viii) Implement appropriate habilitation and rehabilitation for persons with disabilities to develop and regain skills for living in the community;

(ix) Ensure close consultations with and involvement of persons with disabilities, through their representative organizations, including organizations of persons with intellectual or psychosocial disabilities and human rights organizations, in implementing the above-mentioned measures;

(c) Move expeditiously, in consultation with persons with disabilities through their representative organizations, to adopt a national plan for the effective deinstitutionalization of all persons with disabilities in all types of institutions, including those defined under the umbrella term “specialized social services”, and irrespective of age, sex or disability. The national plan should focus on establishing independent living schemes, individualized support and access for persons with disabilities to mainstream community-based services for the general population; be age- and gender-sensitive; and include concrete goals, timelines and indicators, covering all the elements listed in subparagraph (b) above;

(d) Collect data, disaggregated by age, sex, ethnic origin and disability, on children with disabilities in institutions, including those in adult institutions, and set up as a priority a strategy to ensure their right to family life; seek the technical cooperation of the relevant United Nations agencies in designing this strategy, which should include timelines, indicators and benchmarks; and fully involve children with disabilities, through their representative organizations, in its design, implementation and monitoring.

## **C. Equality and non-discrimination (art. 5)**

115. The Committee recommends that the State party, guided by general comment No. 6:

(a) For the purposes of designing and implementing the national plan referred to in paragraph 114 (c), conduct national research, which is gender- and age-sensitive, on the cumulative impact of guardianship and institutionalization on the lives of persons with disabilities;

(b) Include a gender perspective in the design, implementation and monitoring of policies regarding persons with disabilities, and ensure that women with disabilities are fully involved in the design, implementation and monitoring of all policies and measures affecting them, including through temporary special measures;

(c) Eradicate forced contraception and forced abortion among women with disabilities, especially those in institutions, and take measures to ensure that they can fully exercise their sexual and reproductive rights;

(d) Repeal the provisions of the Child Protection Act that allow for the institutionalization of children with disabilities under 12 years of age on the basis of disability;

(e) Repeal legislation and policies that provide for the institutionalization of older persons on the basis of disability, and ensure that older persons with disabilities are fully involved in the design, implementation and monitoring of the national plan referred to in paragraph 114 (c).

## **D. General obligations (art. 4)**

116. The Committee recommends that the State party:

(a) Adopt a comprehensive nationwide strategy to raise awareness about the rights of persons with disabilities – particularly their rights to equal recognition before the law and to live independently and be included in the community with equal choices to others – and to combat disability stereotypes, prejudices and misconceptions that have perpetuated segregation, guardianship and institutionalization on the basis of disability. The strategy should encompass all administrative entities, including regions and counties, and communities in rural and remote areas. It should target members of parliament, judges, magistrates, prosecutors, legal and medical practitioners, government officers, private actors working with persons with

disabilities and family members; contain benchmarks and indicators of progress; and include specific measures addressing persons with disabilities at a particular disadvantage;

(b) Strengthen its system of data collection by periodically and systematically collecting data, disaggregated by sex, age, ethnic origin and geographic location, on persons with disabilities; ensure that data collection covers all areas of life of persons with disabilities; and make data collected periodically accessible for persons with disabilities;

(c) With the involvement of persons with disabilities, design, implement and monitor regular and systematic training activities for all professionals, and staff working with persons with disabilities and for family members; and ensure that the human rights model of disability, the Convention and the Committee's general comments are an integral part of these activities;

(d) Reform the National Council on Disability to ensure that it is genuinely independent from the functional and budgetary perspectives;

(e) Ensure direct and effective access to justice for persons with disabilities, particularly those affected by the restriction of their capacity to act, those subjected to institutionalization or those who are victims of disability-based or other discrimination, through the provision of procedural and age-appropriate accommodation;

(f) Establish accessible complaints mechanisms for persons with disabilities concerning social services, and strengthen the advocacy role of the Office of the Commissioner for Fundamental Rights and independent monitoring of facilities and programmes.

## **VII. Dissemination and follow-up**

117. Pursuant to article 6 (4) of the Optional Protocol to the Convention, the State party must, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

118. After the end of the inquiry proceedings, the Committee will make this report and the State party's observations available to the public. The Committee requests the State party to submit a report within one year of the end of the inquiry proceedings, on the follow-up given to the Committee's recommendations.

119. The Committee secretariat will forward this report to the European Union in due time after the end of the inquiry proceedings for its perusal.