



Convention on the Rights of Persons with Disabilities

Distr.: General
29 April 2019

Original: English

Committee on the Rights of Persons with Disabilities

Decision adopted by the Committee under article 5 of the Optional Protocol, concerning communication No. 15/2013*, **

<i>Communication submitted by:</i>	Steven Kendall
<i>Alleged victim:</i>	The author
<i>State party:</i>	Australia
<i>Date of communication:</i>	14 August 2013
<i>Substantive issues:</i>	Institutionalization of persons with intellectual impairment; access to housing and accommodation support services

1. The author of the communication is Steven Kendall, a national of Australia born on 3 January 1970. In 2003, he was affected at the Jacana acquired brain injury centre in the State of Queensland. At the time of his complaint, in 2013, he was still living at the Jacana centre, despite having been advised by medical staff in July 2005 that his rehabilitation programme would shortly be coming to an end and that he had been assessed as ready for discharge because “no further rehabilitation outcomes” were likely to be achieved. The medical staff determined that the author would require accommodation and disability support services to be available in the community before he could be discharged. Between July 2005 and November 2010, staff at the Jacana centre made various referrals and applications on behalf of the author for community-based accommodation and support services, all of which were unsuccessful. On 30 November 2010, the staff submitted an application to Queensland Department of Communities Housing and Homelessness Services and to Queensland Disability and Community Care Services for social housing and disability support services. The staff at those services assessed the author as being eligible for social housing and as having a “high need” for housing. The author’s name was placed on the housing register. However, Queensland Department of Communities Housing and Homelessness Services advised that social housing would not be allocated to the author unless he was first provided with disability support services. Disability and Community Care Services assessed the author as eligible for disability support services, but advised that it did not have the capacity to fund such support for him. Consequently, the author’s application for social housing remained pending.

* Adopted by the Committee at its twenty-first session (11 March–5 April 2019).

** The following members of the Committee participated in the examination of the communication: Martin Mwesigwa Babu, Danlami Umaru Basharu, Monthian Buntan, Imed Eddine Chaker, Mara Cristina Gabrielli, Amalia Eva Gamio Ríos, Jun Ishikawa, Samuel Njuguna Kabue, László Gábor Lovász, Robert George Martin, Gertrude Oforiwa Fefoame, Dmitry Rebrov, Jonas Ruskus, Markus Schefer and Risnawati Utami.

Pursuant to rule 60 of the Committee’s rules of procedure, Rosemary Kayess did not participate in the consideration of this communication.

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2. By letter of 27 October 2011, the author's counsel lodged a complaint with the Australian Human Rights Commission, alleging that he had been subject to discrimination on the basis of his disability by the Government of Australia and the government of Queensland with regard to his accommodation and the provision of services, in contravention of the Disability Discrimination Act 1992. In further complaints made under the Australian Human Rights Commission Act 1986, it was alleged that the Government of Australia and the government of Queensland had engaged in acts or practices inconsistent with or contrary to the author's rights, as enshrined in the Convention. By letters dated 12 October 2011, the Human Rights Commission notified the heads of the relevant agencies of the Government of Australia and the government of Queensland of the complaints and sought responses. The Commission received a letter dated 10 January 2012 from the Attorney-General's Department of the Government of Australia, denying that the Government had engaged in acts or practices that were contrary to the author's human rights. In a letter to the Commission dated 2 July 2012, Crown Law, on behalf of the State of Queensland, argued that the Commission had no power to enquire into acts or practices of the government of Queensland that were inconsistent with or contrary to the author's human rights. In his complaint to the Committee, the author claimed that the situation amounted to a violation of his rights under articles 14, 18, 19, 22, 23, 26 and 28 of the Convention.

3. On 22 December 2014, the State party sent its observations on admissibility and the merits of the communication. It submitted that the author's complaint should be held inadmissible for non-exhaustion of domestic remedies and for lack of substantiation. The State party noted that, after submitting his complaint to the Committee, the author had been housed in the community, once adapted social housing and funding for support services had become available. On 12 January, 21 May and 4 August 2015 and 4 March 2016, the Committee sent reminders to the author, requesting him to provide comments in that regard. On 29 September 2017, the author indicated that he would submit new comments. On 18 December 2018, a final reminder was sent to the author, informing him that, in the circumstances, the Committee might decide to discontinue his complaint. On 18 January 2019, the author confirmed that he had been "released from Jacana Centre", but did not indicate when he had left the centre.

4. At its meeting on 15 March 2019, the Committee, having been informed that the author had been provided with the housing and accommodation support services referred to in his complaint, decided to discontinue the consideration of communication No. 15/2013.
