

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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**International Convention on the Rights of Persons with Disabilities:
Problems regarding its implementation***

The Greek National Commission for Human Rights (GNCHR) considers the ratification by Greece of the United Nations Convention on the Rights of Persons with Disabilities (Convention) and its Optional Protocol (Protocol) an important step towards protecting fundamental human rights in our country. However, it deems it necessary to identify on a first, indicative level some serious problems arising from the law which sanctioned this Convention and the implementation of the Convention in practice, with the reservation to readdress the issue at a later date.

1. The Convention and the Protocol were sanctioned on 31 May 2012¹ by Law 4074/2012 they were then ratified and entered into international force for Greece on 31 June 2012, in accordance with Article 45(2) of the Convention and Article 13(2) of the Protocol. Therefore, since 31 June 2012 Greece is subject to the monitoring of the Convention conducted by the Committee for the Rights of Persons with Disabilities (Committee), which was established under Article 34 of the Convention. Furthermore, ever since 31 June 2012, the Committee's competence to receive and consider "communications" on behalf of individuals or groups of individuals subject to the Greek State's jurisdiction, claiming that they are victims of a violation of the Convention (Article 1 of the Protocol) has entered into force with regard to Greece.

A. Obligations imposed by the Convention on national implementation and monitoring

2. Article 33 of the Convention imposes on States Parties the following obligations regarding national implementation and monitoring:

- a) "States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels" (Article 33(1)).
- b) "States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights" (Article 33(2)).
- c) "Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process" (Article 33(3)).

B. Inadequate compliance with the obligations imposed by the Convention

I. Inadequate legislative compliance

3. Article 3 of the sanctioning law reads as follows: "By decision of the Prime Minister, in accordance with Article 33(1) of the United Nations Convention on the Rights of Persons with Disabilities, a focal point is designated in the government for monitoring the implementation

* Unanimously adopted by GNCHR Plenum at its 9 October 2014 session.

¹ See http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=68&Lang=en.

of the Convention along with a coordination mechanism for facilitating related action.” This provision constitutes inadequate compliance with the obligations undertaken by the Greek State upon ratification of the Convention, since it enables the Prime Minister to only implement Article 33(1) of the Convention and not the remaining paragraphs thereof.

4. Pursuant to this enabling provision, Prime Minister’s decision No. 426/02.20.2014 “Designation of a focal point for monitoring the implementation of the United Nations Convention on the rights of persons with disabilities (Law 4074/2012, OJ A 88) along with a coordination mechanism for facilitating related action” (OJHR B 523/02.28.2014). With the Sole Article of this decision, a focal point is designated for monitoring the implementation of the Convention along with a coordination mechanism for facilitating related action. This focal point shall be the Ministry of Labour, Social Security and Welfare and more specifically the Ministry's Directorate of International Relations of the General Directorate of Administrative Support. Moreover, the decision reproduces word for word Article 33(3) of the Convention (above No. 2(c)).

5. Thus, due to the inadequacy of the enabling statute, independent mechanisms, which shall promote, protect and monitor the implementation of the Convention, have not been established, as required by Article 33(2) of the Convention. A single mechanism of this kind may even be established or this mission may be assigned to an existing independent body; it is sufficient that this body be independent and dispose of the necessary means (adequate specialised staff and funding) for fulfilling this mission. This omission constitutes a serious violation of the Convention since it considerably reduces its effectiveness. For this purpose, the enabling provision must be completed.

6. Besides, the word for word reproduction of Article 33(3) of the Convention in the aforementioned Prime Minister’s Decision is pointless. A provision enabling an administrative authority to take particular measures which shall grant civil society, in particular persons with disabilities and their representative organizations, the possibility to be involved and to fully participate in the monitoring process of the Convention.

II. Examples of inadequate compliance in practice

7. The substantive provisions of the Convention guarantee the rights of persons with disabilities and impose relevant obligations on States Parties. Among these rights is these persons' right of access, on an equal basis with others, public or private facilities and services which are open or provided to the public; *inter alia*, roads, transportation, buildings, housing, medical facilities, workplaces, monuments, sites of cultural importance etc. (Articles 9 and 30(1) of the Convention), which is of outmost importance for avoiding social exclusion. It is obvious that, in Greece, many if not most of the facilities and services in question including Court premises are very difficult or impossible to access for persons protected by the Convention.

Consequently, GNCHR addresses the following, first and urgent recommendations to the State regarding compliance with the Convention:

- To promulgate legislative provisions specifically enabling administrative authorities to take measures for the implementation of Article 33(2-3) of the Convention.
- To take measures in order to render public or private facilities and services accessible to persons with disabilities, as required by the Convention.