Case summary:[[1]](#footnote-1) ANP v South Africa

Case code: [CRPD/C/23/D/73/2019](https://undocs.org/CRPD/C/23/D/73/2019)

Communication no 73/2019

Date of communication (initial submission): 19 September 2017

Date of adoption of Views: 28 August 2020

Invoked provisions of the Convention: Articles [1, 3 (e), 4 (1) (d), 5 (1), 8 (1) (b)](https://ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx), [12 (3)](https://ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx) and [(5), 13 (1), 15 (2), 17](https://ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx) and [28 (1)](https://ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx) and [(2)](https://ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx)

Provisions of the Optional Protocol: Articles [2 (d)](https://ohchr.org/EN/HRBodies/CRPD/Pages/OptionalProtocolRightsPersonsWithDisabilities.aspx)

Keywords: Equality of opportunity; equality under the law; access to justice; prevention of subjection to torture or cruel, inhuman or degrading treatment or punishment; integrity of the person; adequate standard of living.

Decision: Inadmissible under article [2 (d)](https://ohchr.org/EN/HRBodies/CRPD/Pages/OptionalProtocolRightsPersonsWithDisabilities.aspx) of the Optional Protocol.

Full decision in PDF format: [Arabic](https://undocs.org/ar/CRPD/C/23/D/73/2019), [Chinese](https://undocs.org/zh/CRPD/C/23/D/73/2019), [English](https://undocs.org/en/CRPD/C/23/D/73/2019), [French](https://undocs.org/fr/CRPD/C/23/D/73/2019), [Russian](https://undocs.org/ru/CRPD/C/23/D/73/2019) and [Spanish](https://undocs.org/es/CRPD/C/23/D/73/2019)

**Facts**

The author has “multiple permanent medical disabilities” and chronic conditions, in connection with which he has received modest monthly payments from a permanent disability insurance claim. He is the sole inhabitant of a flat that he co-owns with his brother. Starting in 2008, he has filed annual applications with the City of Cape Town for rebates on the municipal taxes payable over the ownership of the flat under the rates rebate programme for disabled persons and senior citizens. The author states that such rebates are supposed to be made available to persons with disabilities and senior citizens with low to moderate incomes.

The City of Cape Town denied the author’s applications covering the period 2008–2013 on 22 March 2011 and 23 April 2013, and rejected his appeals on 30 April 2012 and 23 May 2013 because his income was too high. According to the author, the City had falsely and without any reason classified the insurance payments as income and his actual income would have rendered him eligible for the full, or almost the full, tax rebate rate. The author claims that he has exhausted all available domestic remedies. He states that his complaints and appeals to the City of Cape Town’s senior echelons – including the Mayor, the Deputy Mayor, the Speaker, the Director of Revenue, the City Manager, the Director of Legal Services, the City Ombudsman and the ward councillors – have either been “brushed aside” or ignored. The author additionally sent complaints to South African Human Rights Commission three departments of the Western Cape provincial government, but not receive a substantive response either.

The author claims that the authorities’ decisions on his tax rebate claims have been unlawful under the State party’s constitution and the City of Cape Town’s Rebates Policy, as well as unreasonable and discriminatory given that others in the same position have received rebates.

**Complaint**

Regarding article 28 (2), the author claims that the City of Cape Town violated of his right to social protection when denied of social assistance in the form of rebates on property taxes.

Regarding article 28 (1), the author claims, that his right to an adequate standard of living was violated since he was made to pay undue amounts.

Regarding article 12 (5), the author claims that his right to property was deprived.

Regarding articles 3 (e) and 5 (1), the author claims violations of his right to equality.

Regarding article 15 (2), the author claims violations of his right to freedom from degrading treatment.

Regarding article 17, the author claims the stress has had a foreseeable negative impact on his mental and physical integrity and have significantly increased his early mortality risk.

Regarding articles 8 (1) (b) and 13 (1), the author claims violations of his right to access to justice, since the City of Cape Town and other organs of the State failed to properly act on his complaint with fairness. He adds that the City of Cape Town’s Revenue Department, failed to advise him of his right to appeal and that, during the appeal, he was not advised of his rights and was not allowed to make any submissions or provide further information.

**Additional submissions from the author**

In 2017, the author provided further submissions, reiterating that he has exhausted all available domestic remedies. He states that he has done so over the course of almost four years and that it would be unreasonable to expect him to wait longer, given that the remedies engaged had proven ineffective. The author adds that he lacks the health required to undergo the stress of a court application, as well as the necessary financial resources, and that he has therefore addressed other authorities for remedies. Further submissions sent in 2019 to various departments in the City of Cape Town and other authorities continued to be either ignored or not responded to substantively. In 2020, the author communicated that the City of Cape Town had still not provided him with the rebates requested and that it continued to fail to respond.

**Committee’s consideration of admissibility**

The Committee considers that the author has not effectively shown that bringing a complaint to the South African courts would objectively have no prospect of success. The Committee notes that the author’s comment that legal aid fees are steep is of a general nature. The author has not explained whether he undertook any efforts to obtain access to low-cost or free legal aid for the purpose of a court application, or whether there were any circumstances rendering it unreasonable for him to undertake such efforts. Further, the author has provided no substantiation demonstrating that his health situation inhibits him from submitting a claim to the South African courts, including through a lawyer. In the circumstances, the Committee finds that it is precluded from considering the communication under article 2 (d) of the Optional Protocol.

**Conclusion**

The communication is inadmissible under article 2 (d) of the Optional Protocol.

1. This summary has been prepared by the International Disability Alliance. For more information on how to lodge individual communications under the Optional Protocol to the CRPD, visit [IDA’s disability rights litigation website.](http://www.internationaldisabilityalliance.org/es/node/105)  [↑](#footnote-ref-1)