

Joint Factsheet

Reasonable accommodation for persons with disabilities ECtHR and CJEU case-Law

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This factsheet has been prepared by the Registry of the European Court of Human Rights (“ECtHR”)¹ and the European Union Agency for Fundamental Rights as part of a collaborative effort to highlight jurisprudence in selected areas where European Union (EU) law and that of the European Convention on Human Rights (“ECHR” or “the Convention”) interact.

Introduction

Reasonable accommodation for persons with disabilities has been defined in Article 2 of the United Nations Convention on the Rights of Persons with Disabilities ([UNCRPD](#)) as “necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”².

Both the Court of Justice of the European Union (CJEU)³ and the ECtHR⁴ have adopted that definition and have considered that a failure to fulfil the obligation to take appropriate measures for the reasonable accommodation of persons with disabilities amounts to discriminatory treatment⁵.

The fulfilment of this obligation can take several forms. Both European courts have held that it is not their task to define the measures to be implemented, the resources to be allocated nor the form which the reasonable accommodation should take⁶. It is considered that national courts are better placed to do so.

The applicability of this obligation depends on the field of application and the scope of the texts on which it is based. Therefore, the case-law has developed in different areas in EU law and in ECHR law. While the CJEU has only examined cases in the field of employment, the ECtHR has rather had to deal with cases related to accessibility of the physical environment and education⁷.

¹ The content of this factsheet is not binding on the Court.

² See the European Union Agency for Fundamental Rights (FRA) report on [Implementing the UN Convention on the Rights of Persons with Disabilities: Human rights indicators](#), 2023.

³ CJEU, judgment of 11 April 2013, [HK Danmark](#), C-335/11, EU:C:2013:222, § 53.

⁴ ECtHR, [Çam v. Turkey](#), no. 51500/08, § 65, 23 February 2016.

⁵ ECtHR, [Çam](#), cited above, § 54; CJEU, judgment of 11 September 2019, [Nobel Plastiques Ibérica](#), C-397/18, EU:C:2019:703, § 62.

⁶ ECtHR, [Çam](#), cited above, § 66; CJEU, judgment of 10 February 2022, [HR Rail](#), C-485/20, EU:C:2022:85, § 40.

⁷ For further information related to the ECtHR’s case-law concerning rights of persons with mental or physical disabilities, see the [Thematic factsheet](#) published by the Department for the Execution of Judgments of the European Court of Human Rights, September 2024.

Reasonable accommodation in EU law

The principle of equal treatment is a general principle of EU law, now enshrined in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union (“the [Charter](#)”), which provide for the right to equality before the law and the right to non-discrimination, respectively⁸. Article 21 of the Charter further expressly prohibits any discrimination based on disability⁸. Furthermore, pursuant to the principle enshrined in Article 26 of the Charter, the EU recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

Until now, the duty to accommodate was developed by the CJEU in the framework of [Council Directive 2000/78/EC](#) of 27 November 2000, which established a general framework for equal treatment in employment and occupation (hereinafter “Directive 2000/78”). In that context, the scope of this obligation is limited to employment, including the selection criteria and recruitment conditions, vocational guidance and training, working conditions, as well as membership and involvement in any organisation⁹. It was indeed considered that “the provision of measures to accommodate the needs of disabled people at the workplace plays an important role in combating discrimination on grounds of disability”¹⁰. Directive 2000/78 requires that appropriate measures be provided, i.e. effective and practical measures to adapt the workplace to the disability, for example adapting premises and equipment, patterns of working time, the distribution of tasks or the provision of training or integration resources¹¹. However, such measures should not give rise to a disproportionate burden: “account should be taken in particular of the financial and other costs entailed, the scale and financial resources of the organisation or undertaking and the possibility of obtaining public funding or any other assistance”¹².

Reasonable accommodation in ECHR law

The ECtHR has ruled that Article 14 of the European Convention on Human Rights (prohibition of discrimination) does not prohibit Member States from treating differently groups whose situations are significantly different in order to correct “factual inequalities between them”; indeed, in certain circumstances a failure to attempt to correct inequality through different treatment may, of itself, give rise to a breach of that provision¹³. The ECtHR has found that Article 14 of the ECHR has to be read in light of the requirements of international law texts regarding reasonable accommodation, particularly the UNCRPD. However, this provision requires reasonable accommodation to be provided rather than the implementation of all possible adjustments which could be made to alleviate the disparities resulting from someone’s disability, regardless of their costs or the practicalities involved¹⁴.

The ECtHR case-law has so far developed mostly in relation to the right to education and access to public buildings.

In the field of education, the ECtHR has emphasised that every child has his or her specific needs, and this applies particularly to children with disabilities. The ECtHR has considered that “reasonable accommodation” in the field of education can take different forms – for instance, teacher training, curricular adaptation or appropriate facilities, depending in particular on the disability in question¹⁵ –

⁸ CJEU, judgment of 9 March 2017, [Milkova](#), C-406/15, EU:C:2017:198, § 55.

⁹ Article 3 of Directive 2000/78.

¹⁰ Recital 16 of Directive 2000/78. See also FRA report on [The legal protection of persons with mental health problems under non-discrimination law](#), 2011, pp. 17-18.

¹¹ Recital 20 of Directive 2000/78; see also its Article 5.

¹² Recital 21 of Directive 2000/78 ; see also its Article 5.

¹³ ECtHR, [Enver Şahin v. Turkey](#), no. 23065/12, § 61, 30 January 2018.

¹⁴ ECtHR, [Enver Şahin](#), cited above, § 67.

¹⁵ ECtHR, [Çam](#), cited above, § 66.

and that it is not for the ECtHR to define the practical arrangements for this in a given case. The ECtHR is of the position that the national authorities are better placed to do so, and emphasised that those authorities must take great care with the choices that they make¹⁶, having regard to the impact of the latter on children with disabilities, whose particular vulnerability cannot be overlooked¹⁷.

In the context of accessibility to an establishment, the ECtHR has held that Article 8 of the ECHR (right to respect for private and family life) comes into play only in exceptional cases¹⁸. The applicant needs first to demonstrate that he or she is unable to access the buildings in question and, second, that inability to access public buildings affects his or her life in such a way as to interfere with his or her right to personal development and right to establish and develop relationships with other human beings and the outside world¹⁹. In particular, the ECtHR has found that reasonable accommodation obligations also apply to the participation of persons with disabilities in political life by adapting polling stations so that persons with disabilities can access them²⁰.

Case-law of the CJEU and of the ECtHR concerning reasonable accommodation for persons with disabilities

Employment

CJEU, judgment of 11 July 2006, [Chacón Navas](#), C-13/05, EU:C:2006:456

Facts – Ms Chacón Navas was certified as unfit to work (on grounds of sickness) and not in a position to return to work in the short term. After eight months, her employer gave her written notice of dismissal without stating any reasons, whilst acknowledging that the dismissal was unlawful and offering her compensation. The case was referred by a Spanish court to the CJEU for a preliminary ruling, asking whether Directive 2000/78 conferred protection on a person who had been dismissed solely on account of sickness.

Law – Firstly, the CJEU found that the concept of ‘disability’ differed from ‘sickness’ and that there was nothing in Directive 2000/78 to suggest that workers were protected by the prohibition of discrimination on grounds of disability as soon as they developed any type of sickness. Secondly, the CJEU held that dismissal was precluded when, in light of the obligation to provide reasonable accommodation for persons with disabilities, it was not justified by the fact that the person concerned was not competent, capable and available to perform the essential functions of her post. In accordance with Article 5 of Directive 2000/78, reasonable accommodation was to be provided to guarantee compliance with the principle of equal treatment of persons with disabilities. This meant that employers should take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, unless such measures would impose a disproportionate burden on the employer.

CJEU, judgment of 11 April 2013, [HK Danmark](#), C-335/11, EU:C:2013:222

Facts – Ms R. had been absent from work on several occasions, providing a medical certificate stating that she was suffering from constant lumbar pain. Ms W. was a victim of a road accident

¹⁶ ECtHR, [G.L. v. Italy](#), no. 59751/15, § 63, 10 September 2020.

¹⁷ ECtHR, [Cam](#), cited above, § 67.

¹⁸ ECtHR, [Glaisen v. Switzerland](#) (dec.), no. 40477/13, § 47, 25 June 2019.

¹⁹ ECtHR, [Arnar Helgi Lárusson v. Iceland](#), no. 23077/19, § 42, 31 May 2022.

²⁰ ECtHR, [Toplak and Mrak](#), cited above.

and suffered whiplash-related injuries. She was declared unfit to work for some months. Both women were dismissed. The trade union HK brought proceedings against their employers on behalf of the two women. The Danish court referred the case to the CJEU for a preliminary ruling, asking whether Article 5 of Directive 2000/78 must be interpreted as meaning that a reduction in working hours may constitute one of the accommodation measures. It also asked whether Directive 2000/78 precludes national legislation under which an employer can terminate the employment contract with a reduced period of notice if the disabled worker has been absent because of illness where those absences were the consequence of the employer's failure to take the appropriate reasonable accommodation measures.

Law – The CJEU referred to the UNCRPD, which was ratified by the European Union, to find that the concept of 'disability' must be understood as referring to a limitation which results, in particular, from physical, mental or psychological impairments which, in interaction with various barriers, may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers. Thus, if a curable or incurable illness entailed such a long-term limitation, this illness could be covered by the concept of 'disability'. In addition, the definition of the concept of 'disability' came before the determination and assessment of the appropriate accommodation measures. These measures were therefore the consequence, not the constituent element, of the concept of disability. The CJEU also held that 'reasonable accommodation' must be understood as referring to the elimination of the various barriers that hinder the full and effective participation of persons with disabilities in professional life on an equal basis with other workers. A reduction in working hours may constitute one of the accommodation measures. It was for the national court to assess whether, in the circumstances of the main proceedings, a reduction in working hours, as an accommodation measure, represented a disproportionate burden on the employer. Lastly, the CJEU found that the circumstance that an employer had failed to take those measures may have the consequence that the absences of a worker with a disability are attributable to the employer's failure to act, not to the worker's disability. Therefore, where those absences were the consequence of the employer's failure to take the appropriate accommodation measures, Directive 2000/78 must be interpreted as precluding the national legislation in issue.

CJEU, judgment of 4 July 2013, [Commission v Italy](#), C-312/11, EU:C:2013:446

Facts – The European Commission asked the CJEU to declare that, by failing to require all employers to provide reasonable accommodation for all persons with disabilities, the Italian Republic had failed to fulfil its obligation to transpose correctly and fully Article 5 of Directive 2000/78. According to the Commission, there was no provision in Italian legislation transposing the general obligation. Moreover, guarantees and accommodations provided for in Italian law do not concern all persons with disabilities, all employers or even all the different aspects of the employment relationship.

Law – The CJEU reiterated that the concept of 'disability' must be understood as referring to a limitation resulting, in particular, from physical, mental or psychological impairments which, in interaction with various barriers, may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers. Therefore, the expression "persons with disabilities" in Article 5 of Directive 2000/78 must be interpreted as encompassing all persons corresponding to this definition. The CJEU also held that, in accordance with Article 2 of the UNCRPD, 'reasonable accommodation' was 'necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms'. That concept must be understood as referring to the elimination of the various barriers hindering the full and effective participation of persons with

disabilities in professional life on an equal basis with other workers. The CJEU found that, in order to transpose correctly and fully the obligation, it did not suffice to enact public incentives and support measures. It held that it was the responsibility of the Member States to impose an obligation on all employers to take effective and practical measures, based on the need in concrete situations for persons with disabilities and covering the different aspects of the employment relationship. Those measures should enable people with disabilities to access, remain in or progress in employment, or to be provided with training. Thus, the Italian Republic had failed to fulfil its obligation.

CJEU, judgment of 11 September 2019, [Nobel Plastiques Ibérica](#), C-397/18, EU:C:2019:703

Facts – DW was working in the process of assembly and shaping of plastic pipes. She was diagnosed with epicondylitis, which was classified as an ‘occupational disease’. She was temporarily unable to work for several periods. She was also diagnosed with anxiety disorder. As a result, she was categorised as being among ‘workers particularly susceptible to occupational risks’. She was medically declared ‘fit with limitations’ for her job. Therefore, she was assigned to other posts, involving the handling of smaller pipes. Later on, with a view of carrying out a dismissal on objective grounds, her employer adopted several selection criteria, among them having a productivity below 95%, a low level of multi-skilling in the post and a high rate of absenteeism. On the basis of those criteria, DW received a letter of dismissal. The referring court asked the CJEU whether Directive 2000/78 must be interpreted as meaning that the dismissal of a worker with disabilities for ‘objective reasons’, on the basis that he or she satisfies the selection criteria taken into account by the employer, constitutes direct or indirect discrimination on grounds of disability.

Law – The CJEU observed that the selection criteria, which were ostensibly neutral, applied in the same way to persons with disabilities as to persons without disabilities. However, as regards more specifically the selection criterion relating to the rate of absenteeism, a disabled worker was, in principle, more exposed to the risk of having a high rate of absenteeism as compared to a worker without a disability, since he or she was exposed to the additional risk of being absent owing to an illness connected with his or her disability. In the same way, concerning the selection criteria of having productivity below a given rate and a low level of multi-skilling in the undertaking’s posts, a disabled worker was, in principle, owing to the limitation of his or her capacity, less likely to obtain a good score than a worker without a disability. Therefore, indirect discrimination was to be taken to occur where an apparently neutral provision, criterion or practice would put persons having, *inter alia*, a particular disability, at a particular disadvantage compared with other persons, unless the employer or any person or organisation to whom that directive applies was obliged, under national legislation, to take appropriate reasonable accommodation measures in order to eliminate disadvantages entailed by such provision, criterion or practice. The concept of ‘reasonable accommodation’ must be understood as referring to the elimination of the various barriers that hinder the full and effective participation of persons with disabilities in professional life on an equal basis with other workers. As set out in recitals 20 and 21 of Directive 2000/78, the employer must take appropriate measures, i.e. effective and practical measures to adapt the workplace to the disability, for example by adapting premises and equipment, patterns of working time, the distribution of tasks or the provision of training or integration resources, without imposing a disproportionate burden on the employer, taking account, in particular, of the financial and other costs entailed, the scale and financial resources of the undertaking and the possibility of obtaining public funding or any other assistance. If the referring court were to conclude that, prior to DW’s dismissal, DW’s employer did not take appropriate measures, and that, therefore, it did not provide reasonable accommodation, it must be held that the dismissal of a disabled worker on the ground

that he or she fulfilled those selection criteria constitutes indirect discrimination on grounds of disability.

CJEU, judgment of 15 July 2021, [Tartu Vangla](#), C-795/19, EU:C:2021:606

Facts – The person concerned was employed as a prison officer in Estonia. His employment obligations included, *inter alia*, supervising persons under electronic surveillance and identifying breaches of the prison's internal regulations. He was dismissed in accordance with provisions of Estonian law on the ground that his level of auditory acuity did not meet the minimum standards of sound perception. An Estonian Court made a request to the CJEU for a preliminary ruling, asking whether Directive 2000/78 must be interpreted as precluding national legislation which imposes an absolute bar to the continued employment of a prison officer whose auditory acuity does not meet the minimum standards of sound perception prescribed by that legislation and which does not allow the use of corrective aids during the assessment of whether the auditory acuity requirements are met.

Law – The CJEU held that persons having a reduced level of auditory acuity were treated less favourably than other persons who are, have been or would be treated in a comparable situation, because the first could not be recruited or continue in employment as prison officers. Member States may provide that such a difference of treatment did not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constituted a genuine and determining occupational requirement, provided that the objective was legitimate and the requirement was proportionate. By reason of the nature of a prison officer's duties and of the context in which they are carried out, the fact that his or her auditory acuity must satisfy minimum standards of sound perception laid down by national legislation may be regarded as such a requirement for the purposes of employment as a prison officer. However, the domestic law did not take into account the fact that a hearing impairment may be corrected by means of hearing aids which could be miniaturised, sit inside the ear or be placed under headgear. It should be recalled that, under Article 5 of Directive 2000/78, read in the light of recitals 20 and 21 thereof, employers were to take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment unless such measures would impose a disproportionate burden on the employer. In that regard, the CJEU held that that directive precluded dismissal on grounds of disability which, in the light of the obligation to provide reasonable accommodation for people with disabilities, was not justified by the fact that the person concerned is not competent, capable and available to perform the essential functions of his post. In the present case, the domestic law did not allow his employer to conduct, prior to his dismissal, checks in order to ascertain whether it was possible to take appropriate measures, in accordance with Article 5 of Directive 2000/78 - such as his use of a hearing aid; his being exempted from the obligation of performing tasks requiring him to meet the minimum standards of sound perception prescribed; or his assignment to a post which did not require those standards to be reached - and no indication was provided as to the possible disproportionate nature of the burden which would be imposed by such measures. Thus, the CJEU held that Directive 2000/78 precluded national legislation which imposed an absolute bar to the continued employment of a prison officer whose auditory acuity did not meet the minimum standards of sound perception prescribed by that legislation, without allowing it to be ascertained whether that officer was capable of fulfilling those duties, where appropriate after the adoption of reasonable accommodation measures for the purposes of Article 5.

CJEU, judgment of 21 October 2021, [Komisia za zashtita ot diskriminatsia](#), C-824/19, EU:C:2021:862

Facts – VA was admitted as a juror by the Sofia City Court in Bulgaria. She lodged a complaint with the Commission for Protection against Discrimination, claiming that she had been treated less favourably based on her disability, because the chamber judge had not allowed her to participate in any criminal proceedings for more than a year. The Commission found that VA had been discriminated against on the ground of her disability, and imposed a fine on the court president and the chamber judge. The referring court made a request to the CJEU for a preliminary ruling, asking whether Directive 2000/78, read in the light of Articles 21 and 26 of the Charter and of the UNCRPD, must be interpreted as precluding the total exclusion of a blind person from any opportunity to perform duties as a juror in criminal proceedings.

Law – The CJEU observed that VA appeared to have been treated less favourably than the other jurors assigned to that chamber in a comparable situation but who were not blind, on the grounds of her disability. The CJEU accepted that by reason of the nature of a juror's duties in criminal proceedings and the context in which they are carried out, which may in certain cases involve examination and assessment of visual evidence, vision may be regarded as a 'genuine and determining occupational requirement' for the activity of juror in such proceedings, in so far as such examination and assessment of that evidence cannot be made by means of, *inter alia*, medico-technical equipment. Regarding the proportionality of the treatment, the CJEU reiterated that regard must be had to the fact that, under Article 5 of Directive 2000/78, read in the light of recitals 20 and 21 thereof, employers were to take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment unless such measures would impose a disproportionate burden on the employer. VA was totally excluded from participating in the matters dealt with by the criminal court to which she had been assigned, without any evaluation of her individual ability to perform her duties and without any investigation of the possibility of rectifying any difficulties that may arise. She was excluded from any participation in criminal proceedings, irrespective of the matters concerned and without any investigation as to whether reasonable accommodation, such as material, personal or organisational assistance could be offered to her. It appeared, subject to determination by the referring court, that that measure went beyond what was necessary, in so far as it was clear from the reference for a preliminary ruling that, after the introduction of electronic allocation of jurors in August 2016, VA participated, in that capacity, in the judgment of numerous criminal matters. Directive 2000/78 must be interpreted as precluding that a blind person be totally deprived of any possibility of performing the duties of a juror in criminal proceedings.

CJEU, judgment of 10 February 2022, [HR Rail](#), C-485/20, EU:C:2022:85

Facts – The applicant was a trainee at the legal entity acting as the 'management infrastructure' for the Belgian railways. He was diagnosed with a heart condition that required the fitting of a pacemaker, a device which is sensitive to the electromagnetic fields present on railway tracks. He was no longer capable of performing the duties for which he had originally been recruited. The company's regional medical centre declared him to be permanently unfit to perform the duties for which he was recruited and stated that he could be employed in a post with moderate activity, no exposure to magnetic fields, not at altitude or exposed to vibrations. He was then assigned to a warehouseman's position. Later on, he was informed of his dismissal with a ban on his recruitment for a period of five years to the grade at which he had been recruited. The Council of State made a request to the CJEU for a preliminary ruling, asking whether Directive 2000/78 must be interpreted as meaning that it requires that a trainee who, owing to his or her disability, has been declared

incapable of performing the essential functions of the post that he or she occupies, be assigned to another position for which he or she has the necessary competence, capability and availability.

Law – The CJEU reiterated that the employer was required to take appropriate measures, that is to say effective and practical measures, taking each individual situation into account, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. The CJEU held that the list of appropriate measures provided by recital 20 was non-exhaustive. These measures may be physical, organisational and/or educational. An adaptation of the workplace should be made as a matter of priority to enable him or her to participate fully and effectively in professional life on an equal basis with other workers. Where a worker becomes permanently incapable of remaining in his or her job because of the onset of a disability, reassignment to another job may constitute an appropriate measure in the context of reasonable accommodation within the meaning of Article 5 of Directive 2000/78. However, this provision did not oblige an employer to take measures which would impose a ‘disproportionate burden’ on it. In that regard, it followed from recital 21 of that directive that, in order to determine whether the measures in question give rise to a disproportionate burden, account should be taken, in particular, of the financial costs entailed, the scale and financial resources of the organisation or undertaking and the possibility of obtaining public funding or any other assistance. One factor which may be relevant for the purposes of that assessment was that, as the referring court observed, after being declared incapable of performing the duties for which he had been recruited, the applicant in the main proceedings was reassigned to a warehouseman’s position within the same company. In addition, it should be stated that, in any event, the possibility of assigning a disabled person to another job was only available where there was at least one vacancy that the worker in question was capable of holding.

CJEU, judgment of 18 January 2024, [Ca Na Negreta](#), C-631/22, EU:C:2024:53

Facts – JMAR had been employed as a full-time driver of a waste collection lorry. He suffered an accident at work which resulted in an open fracture of his right calcaneum. Following that accident, he was temporarily unable to work. He asked his employer to reassign him to a post that was suitable on account of the after-effects of his accident at work. Ca Na Negreta accepted the request and moved him to a position as a driver in the mobile collection points sector, which was physically less demanding, involved less driving time and was compatible with his physical limitations. Later, his employer notified him of the termination of his employment contract on grounds of his total permanent incapacity to perform his normal occupation. The referring court made a request to the CJEU for a preliminary ruling, asking whether an employer may terminate the employment contract on the ground that the worker is permanently unable to perform the tasks entrusted to him or her under that contract, on account of a disability occurring during the employment relationship, without the employer first being required to make or maintain reasonable accommodation in order to enable that worker to keep his or her job, or to demonstrate, where appropriate, that such accommodation would constitute a disproportionate burden.

Law – The CJEU held that, when interpreting Directive 2000/78, it should be borne in mind that the provisions of the UNCRPD may be relied on, with the result that the former must, as far as possible, be interpreted in a manner that is consistent with the latter. Therefore, the concept of discrimination included all forms of discrimination, including denial of reasonable accommodation. The employer was required to take appropriate measures, that is to say effective and practical measures, taking each individual situation into account, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. In that regard, the concept of

‘reasonable accommodation’ required that a worker who, owing to his or her disability, had been declared incapable of performing the essential functions of the post that he or she occupied, be assigned to another position for which he or she has the necessary competence, capability and availability, unless that measure imposed a disproportionate burden on the employer. In the present case, the national legislation allowed a worker to be dismissed as soon as he or she has been formally recognised as unfit to occupy his or her post because of the onset of a disability, without requiring the employer first to take appropriate measures or to maintain the appropriate measures already taken. Such legislation appeared to have the effect, subject to verification by the referring court, of exempting the employer from its obligation to make or, where appropriate, to maintain reasonable accommodation, such as reassignment to another post, even if the worker concerned had the necessary competence, capability and availability to perform the essential functions of that other post. In addition, the legislation did not appear to require the employer to demonstrate that such reassignment would be such as to impose on it a disproportionate burden. Therefore, Article 5 of Directive 2000/78 precluded such national legislation.

Accessibility of the physical environment

ECtHR, [Neagu v. Romania](#) (dec.), no. 49561/16, 29 January 2019

Facts – The applicant, who was diagnosed with a permanent physical disability, could only move around with the aid of a wheelchair. She lived with her spouse, who was appointed her legal guardian and personal assistant, in a flat. The chairman of the owner’s association of their building installed two additional doors which visitors had to open after entering through the main entrance door. She brought an action to reposition the main entrance door’s hinges so that the access ramp would be aligned with the door to allow unhindered access in her wheelchair. She complained that she could not enjoy a normal life because she could not leave her apartment, as the main entrance to her residential building was obstructed.

Law – The ECtHR held that the notion of personal autonomy was an important principle underlying the interpretation of the guarantees of Article 8. Member States’ obligations under that provision may involve the adoption of measures designed to secure respect for private and family life even in the sphere of the relations of individuals between themselves. Where domestic proceedings had taken place, it was not the Court’s task to substitute its own assessment of the facts for that of the domestic courts and it was for the latter to establish the facts based on the evidence before them. In this regard, the ECtHR considered that it had no reasons to contradict the findings of the domestic judge, who concluded that the applicant’s wheelchair could pass through the doors and that even her husband, who acted as her personal assistant, could manage the manoeuvres necessary for accessing the building. Moreover, the ECtHR considered that the State authorities were mindful of the applicant’s situation and of her right to receive special protection because of her disability. The ECtHR considered that the domestic courts gave convincing reasons when explaining why the measures requested by the applicant would be excessive.

Conclusion – Inadmissible (manifestly ill-founded).

ECtHR, [Glaisen v. Switzerland](#) (dec.), no. 40477/13, 25 June 2019

Facts – The applicant, who was paraplegic, found himself unable to enter an “experimental art cinema” in order to watch a film which he wished to see, and which was not screened by any other cinema in his town. There was no wheelchair access to the cinema and the applicant was not allowed to be carried inside the building. He complained that the domestic courts had failed to

categorise as discrimination the refusal by the cinema, operated by a private company, to grant him access.

Law – The ECtHR reiterated that Article 14 of the ECHR only complements the other substantive provisions of the Convention and the Protocols thereto. It held that the concept of “private life” covered the right to personal development and to establish and develop relationships with other human beings and the outside world. In particular, the ECtHR said that the notion of personal autonomy was an important principle underlying the interpretation of the guarantees of Article 8 of the ECHR. However, the ECtHR emphasised that Article 8 came into play in such circumstances only in exceptional cases, where the applicant’s lack of access to public buildings and buildings open to the public affected his or her life in such a way as to interfere with his or her right to personal development and the right to establish and develop relationships with other human beings and the outside world. The ECtHR considered that it could not be construed as conferring a right to access a particular cinema to watch a specific film, provided that there is general access to other cinemas in the vicinity. It considered relevant the Government’s argument, undisputed by the applicant, to the effect that other cinemas operated by the same company were adapted to his needs. The ECtHR considered that the refusal to allow the applicant to enter did not affect his life in such a way as to interfere with his right to personal development or to establish and develop relationships with other human beings and the outside world. The ECtHR also reiterated that States were afforded a broad margin of appreciation in situations where they must strike a balance between competing private and public interests or between different Convention rights. The domestic legislation put in place had the purpose of creating appropriate conditions to facilitate the participation of persons with disabilities in the life of society. The domestic court set out sufficient grounds explaining why the situation faced by the applicant was not serious enough to fall within the concept of discrimination.

Conclusion – Inadmissible (incompatible *ratione materiae*).

ECtHR, [Toplak and Mrak v. Slovenia](#), nos. 34591/19 and 42545/19, 26 October 2021

Facts – The two applicants had muscular dystrophy and used electric wheelchairs for mobility. They both voted during the national referendum in 2015, and the second applicant voted in elections for the European Parliament in 2019. They complained about the lack of adequate measures to allow them access to the voting procedures of the said referendum and elections. They argued that “accessible” polling stations meant not only stations that had an accessible entrance, but also an accessible path to the voting room, access to the voting booth in which they could vote privately, an accessible ballot paper and an accessible ballot box.

Law – The ECtHR considered that the right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention was also violated when States, without an objective and reasonable justification, fail to treat differently people whose situations are significantly different. A certain threshold was required for the ECtHR to find that the difference in circumstances was significant. The effective enjoyment of many of the Convention rights by people with disabilities may require the adoption of various positive measures by the relevant State authorities. The ECtHR held that in the context of the participation of people with disabilities in political life, Article 14 of the Convention had to be read in the light of the requirements of reasonable accommodation – understood as “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case” – which people with disabilities were entitled to expect in order to ensure “the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”. Such reasonable accommodation helped to correct factual inequalities which were unjustified and which therefore amounted to

discrimination. In particular, Article 29 of the UNCRPD explicitly required the State Parties to guarantee to people with disabilities the opportunity to enjoy political rights on an equal basis with others and to undertake to ensure, among other things, accessible voting procedures. The ECtHR reiterated that States enjoyed a margin of appreciation in assessing the needs of people with disabilities in respect of elections and the means of providing them with adequate access to polling stations within the context of the allocation of limited State resources. It observed that the applicants were able to vote at the polling stations in proximity to their residence, in accordance with their wishes, as opposed to having to go to specially designated polling stations. While adaptations of the voting facilities (such as tables, voting booth and ballot box) were not made in advance, assistance could be provided to the applicants on the spot by means of a reasonable accommodation of their needs. Since the improvement of accessibility in the built environment may take time, it was essential that, in the meantime, the domestic authorities react with the requisite diligence to ensure that people with disabilities can vote freely and by secret ballot. In the present case, the National Commission responded promptly and constructively to the applicants' request that their respective polling stations be rendered accessible.

Conclusion – No violation of Article 1 of Protocol No. 12; no violation of Article 14 in conjunction with Article 3 of Protocol No. 1.

ECtHR, [Arnar Helgi Lárusson v. Iceland](#), no. 23077/19, 31 May 2022

Facts – The applicant was left permanently paralysed from the chest down following an accident. He uses a wheelchair for mobility. He brought civil proceedings challenging a lack of wheelchair access in two buildings housing arts and cultural centres run by the municipality. He submitted before the ECtHR that his access to the buildings had a significant impact on his inclusion in, or exclusion from, the cultural and social life of his local community. He argued that no similar cultural or social venues in the municipality were accessible to him.

Law – In the context of accessibility, the ECtHR had held that Article 8 came into play only in exceptional cases, where the applicant's lack of access to public buildings and buildings open to the public affected his or her life in such a way as to interfere with his or her right to personal development and right to establish and develop relationships with other human beings and the outside world. In the present case, the accessibility issue concerned buildings owned and/or operated by, and located in, the applicant's own municipality. The applicant had identified a small, clearly defined number of buildings where access is lacking and explained how the lack of access to each of those buildings had affected his life. The ECtHR noted that, without access to the physical environment and to other facilities and services open or provided to the public, people with disabilities would not have equal opportunities for participation in their respective societies. The matter at issue was liable to affect the applicant's right to personal development and right to establish and develop relationships with other human beings and the outside world, and the applicant's private life, within meaning of Article 8 of the Convention. However, the ECtHR found that the State took considerable measures to assess and address accessibility needs in public buildings, within the confines of the available budget and having regard to the cultural heritage protection of the buildings in question. In deciding on those improvements, the municipality prioritised improving accessibility to educational and sports facilities, which is neither an arbitrary nor an unreasonable strategy of prioritisation, also considering the emphasis which the Court had placed on access to education and educational facilities in its case-law. In these circumstances, imposing on the State a requirement under the Convention to put in place further measures would have amounted to imposing a "disproportionate or undue burden" on it within the context of its positive obligations, to reasonably accommodate the applicant.

Conclusion – No violation of Article 14 in conjunction with Article 8 of the ECHR.

Education

ECtHR, [Çam v. Turkey](#), no. 51500/08, 23 February 2016

Facts – The applicant, who was blind, passed the entrance examination for a music academy after having successfully taken the practical tests for mastery of the Turkish lute. According to a report drawn up by a medical board, she could attend lessons in the sections of the academy where eyesight was not required. At the request of the director of the music academy, the report was amended to mention the fact that the applicant “could not receive education or training”. The academy then rejected the applicant’s request for enrolment. She argued that the State had not honoured its positive obligation to provide persons with disabilities with the same opportunities as everyone else, and that her treatment was discriminatory.

Law – The ECtHR held that in a democratic society, the right to education was indispensable to the furtherance of human rights and played a fundamental role. However, the ECtHR acknowledged that it was an activity that was complex to organise and expensive to run, whereas the resources that the authorities could devote to it were necessarily finite. In the present case, it had to ascertain whether, the State having decided to provide specialist musical education, access to such education could be withheld from a group of persons on the sole ground of their disability. While it was true that all applicants for enrolment in the academy were required to provide a medical certificate concerning their physical fitness, the Court could not overlook the effects of such requirement on persons such as the applicant who have a physical disability, having regard to the way the Academy in question interpreted that requirement. The ECtHR reiterated that Article 14 of the Convention had to be read in light of the requirement of reasonable accommodation, helping to correct factual inequalities which were unjustified and therefore amounted to discrimination. In the educational sphere, reasonable accommodation may take a variety of forms, whether physical or non-physical, educational or organisational, in terms of the architectural accessibility of school buildings, teacher training, curricular adaptation or appropriate facilities. That being the case, it was not the ECtHR’s task to define the resources to be implemented to meet the educational needs of children with disabilities. The national authorities, by reason of their direct and continuous contact with the vital forces of their countries, were in principle better placed than an international court to evaluate local needs and conditions in this respect. However, the ECtHR took the view that it was important for the States to be particularly careful in making their choices in this sphere, having regard to the impact of the latter on children with disabilities, whose particular vulnerability could not be overlooked. In the present case, the relevant domestic authorities at no stage attempted to identify the applicant’s needs or to explain how her blindness could have impeded her access to a musical education, nor did they ever consider physical adaptations to meet any special educational needs arising from the applicant’s blindness.

Conclusion – Violation of Article 14 taken in conjunction with Article 2 of Protocol No. 1.

ECtHR, [Enver Şahin v. Turkey](#), no. 23065/12, 30 January 2018

Facts – During his studies, the applicant had an accident which left his lower limbs paralysed. He formally requested the university to carry out the necessary alterations and work to make the teaching premises accessible. The university replied that it did not have sufficient funds to carry out

the work in the short term, and offered him the assistance of a support person. The applicant complained of a discriminatory infringement of his right to education.

Law – The ECtHR reiterated that in certain circumstances, a failure to attempt to correct inequality through different treatment may, in itself, give rise to a breach of Article 14. In that connection, the ECtHR noted the importance of the fundamental principles of universality and non-discrimination in the exercise of the right to education. It further emphasised that many international instruments had recognised inclusive education as the most appropriate means of guaranteeing the aforementioned fundamental principles, as such education was geared to promoting equal opportunities for all, including persons with disabilities. Inclusive education indubitably formed part of the States' international responsibility in this sphere. The ECtHR held that Article 14 had to be read in the light of the requirements of reasonable accommodation. It was not its task to define the "reasonable accommodation" – which could take on different material and non-material forms – to be implemented in the educational sphere in response to the educational needs of persons with disabilities; the national authorities were much better placed than it to do so. However, those authorities had to take great care with the choices they make in this sphere, in view of the impact of those choices on persons with disabilities, whose particular vulnerability could not be ignored. The ECtHR reiterated that the ability of persons with disabilities to live autonomously with a fully-developed sense of dignity and self-respect was of cardinal importance and was central to the UNCRPD. Similarly, the ECtHR itself had ruled that the very essence of the Convention was respect for human dignity and human freedom, which necessarily included a person's freedom to make his or her own choices. Offering assistance to be provided by a support person, which was proposed by the faculty without any individualised assessment of the applicant's actual situation could not have been deemed reasonable because it disregarded the applicant's need to live as independently and autonomously as possible. The Government had failed to demonstrate that the national authorities, including in particular the academic and judicial authorities, reacted with the requisite diligence to ensure that the applicant could continue to exercise his right to education on an equal footing with other students.

Conclusion – Violation of Article 14 of the ECHR read in conjunction with Article 2 of Protocol No. 1.

ECtHR, [G.L. v. Italy](#), no. 59751/15, 10 September 2020

Facts – The applicant, a child born in 2004 who suffered from non-verbal autism, was not able to receive, in the first two years of primary school from 2010 to 2012, the specialised assistance to which she was entitled under the relevant legislation. She was thus obliged to pay for private specialised assistance. She considered that the State had failed in its positive obligation to ensure equal opportunities for persons with disabilities.

Law – The ECtHR considered that the core of the applicant's complaint was the allegation that she sustained discriminatory treatment. It reiterated that the scope of Article 14 of the Convention covered the prohibition of discrimination based on disability, but also the requirement for States to ensure "reasonable accommodation" that would help correct factual inequalities which were unjustified and therefore amounted to discrimination. While education was one of the most important public services in a modern State, the ECtHR acknowledged that education was a complex activity to organise and expensive to run, whereas the resources that the authorities could devote to it are necessarily finite. It held that, in deciding how to regulate access to education, a State had to strike a balance between, on the one hand, the educational needs of those under its jurisdiction and, on the other, its limited capacity to accommodate them. The ECtHR reiterated that it was not its task to define the "reasonable accommodation" – which could take on different material and non-material forms – to be implemented in the educational sphere in response to the educational

needs of persons with disabilities: the national authorities were much better placed to do so. However, it was important for States to pay particular attention to their choices in this sphere in view of their impact on children with disabilities, whose high level of vulnerability could not be overlooked. In the present case, even though the law provided, in an abstract manner, for making “reasonable accommodation”, without granting the authorities any leeway, the competent national bodies did not actually explain why the applicant was unable to receive specialist assistance tailored to her specific educational needs during that time. She should have received specialist assistance aimed at promoting her personal autonomy and communication skills and improving her learning process, her relationships with others and her integration at school in order to prevent the risk of marginalisation. The ECtHR concluded that the authorities did not seek to determine the applicant’s real needs or possible solutions to enable her to attend primary school under conditions as similar as possible to those enjoyed by other children, without imposing a disproportionate or undue burden on the authorities. The ECtHR further held that the discrimination suffered by the applicant was particularly serious as it occurred in the framework of primary schooling, which provided the bases for overall education and social integration and the first experiences of living together – and which was compulsory in most countries.

Conclusion – Violation of Article 14 of the ECHR taken in conjunction with Article 2 of Protocol No. 1.

ECtHR, [T.H. v. Bulgaria](#), no. 46519/20, 11 April 2023

Facts – The applicant, a child born in 2004, had behavioural difficulties in school and was later diagnosed with a hyperkinetic disorder and a specific developmental disorder of scholastic skills. He complained that he was discriminated against by the head teacher and his teacher in the first two years of primary school. He complained, firstly, that they harassed him and treated him unprofessionally, and, secondly, that they failed to organise his education in a manner corresponding to his special educational needs.

Law – The ECtHR emphasised that the discrimination prohibited by Article 14 could consist not only in less favourable treatment on grounds of a disability without a reasonable and objective justification but also in a failure to provide “reasonable accommodation” for someone with a disability. The notion of “reasonable accommodation” in this context must be understood in the sense ascribed to it by Article 2 of the UNCRPD: “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”. “Reasonable accommodation” in the field of education could take different material or non-material forms – for instance, teacher training, curricular adaptation or appropriate facilities, depending in particular on the disability in question – and it was not for the ECtHR to define its modalities in a given case, the national authorities being much better placed to do so, it being emphasised however that those authorities must take great care with the choices that they make in this respect. In the present case, the applicant’s behaviour in school and the resulting incidents, in particular with classmates, elicited a number of reactions from his teacher and the head teacher. The ECtHR considered that it could not be said that the head teacher and the applicant’s teacher had turned a blind eye to his disability and his resulting special needs; it appeared that they had made a series of reasonable adjustments for him. Article 14 of the Convention required reasonable accommodation, rather than all possible adjustments which could be made to alleviate the disparities resulting from someone’s disability regardless of their costs or the practicalities involved.

Conclusion – No violation of Article 14 of the ECHR taken in conjunction with Article 2 of Protocol No. 1.

ECtHR, *Djeri and Others v. Latvia*, nos. 50942/20 and 2022/21, 18 July 2024

Facts – The case concerned amendments to the domestic law whereby the use of the State language, Latvian, was increased in all pre-schools and the use of Russian was consequently reduced. The applicants complained that reducing the use of Russian as the language of instruction in Latvia discriminated between Russian-speaking children with special needs and Russian-speaking children without special needs.

Law – The ECtHR emphasised that the discrimination prohibited by Article 14 could consist not only in less favourable treatment on grounds of a disability without a reasonable and objective justification but also in a failure to provide “reasonable accommodation” for someone with a disability. The notion of “reasonable accommodation” in this context must be understood in the sense ascribed to it by Article 2 of the UNCRPD: “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”. “Reasonable accommodation” in the field of education could take different material or non-material forms – for instance, teacher training, curricular adaptation or appropriate facilities, depending in particular on the disability in question – and it was not for the ECtHR to define its modalities in a given case, the national authorities being much better placed to do so, it being emphasised however that those authorities must take great care with the choices that they make in this respect. In the present case, the ECtHR noted that all children may have specific educational needs, irrespective of their mother tongue and whether they belong to a minority. It observed that the Latvian legal system secured the right of education for children with special needs in the form of inclusive education. The ECtHR did not exclude the possibility that there may be some specific circumstances where the principle of reasonable accommodation could require the State to ensure that pupils with special needs have some parts of their pre-school education in their mother tongue, in view of the legitimate aim to effectively prepare children for primary education. However, it considered that the first and second applicants had failed to substantiate their allegations of discrimination in the present case. The respondent State had taken a number of steps to provide support mechanisms for children with special needs. Such mechanisms were not limited to general measures and forms of support, but also included individualised approaches (such as individual learning plans) to accommodate any specific educational needs.

Conclusion – No violation of Article 14 taken in conjunction with Article 2 of Protocol No. 1.

Access to justice

ECtHR, *I.C. v. The Republic of Moldova*, no. 36436/22, 27 February 2025

Facts – The applicant was intellectually disabled and deprived of legal capacity. Abandoned at birth, she was later taken by a couple to live on their farm as part of a policy of “deinstitutionalising” long-term patients. The applicant ran away from the farm, complaining that she was not paid for her work and that the man of the couple had been raping and sexually abusing her. Before the ECtHR, the applicant argued that at the pre-trial phase, she had not been provided with any reasonable

accommodation or procedural accommodation to allow her to properly understand the questions asked by the police, fully express her grievances and effectively assert her rights.

Law – The ECtHR reiterated that Article 14 of the ECHR must be read in the light of international requirements regarding reasonable accommodation which persons with disabilities are entitled to expect in order to ensure the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. The ECtHR noted that the alleged difference in the treatment of women with intellectual disabilities in the Republic of Moldova did not result from the wording of any statutory provisions, but rather a *de facto* policy of State agents. The issue was whether the failure of the authorities to protect the applicant from servitude and to investigate her allegations about servitude and sexual abuse was the result of a discriminatory approach, stemmed from a wider institutional tolerance of violence against women and neglect of persons with disabilities and the Moldovan authorities' complacency in relation to such cases which undoubtedly affected women more than men. The ECtHR noted that multiple forms of discrimination against women with disabilities affected all areas of life, but particularly deprived women affected by violence of access to mainstream services and justice, owing to a lack of reasonable accommodation and legal aid. The ECtHR noted, in the present case, the lack of procedural accommodation in the course of the domestic proceedings despite the applicant's intellectual disability and the intimate and sensitive nature of her complaints. The ECtHR also noted how the domestic courts had concluded that the applicant had been untruthful by choosing to rely on the statements made by witnesses who had expressed discriminatory views about the applicant's credibility, as a woman with intellectual disability, while refusing to accept the evaluation of a professional who had attested to the applicant's truthfulness and trauma. Such an approach exposed her to secondary victimisation and amounted to a failure to provide the necessary accommodation to correct unjustified inequality related to her disability.

Conclusion – Violation of Article 14 taken in conjunction with Articles 3, 4 and 8 of the ECHR.

Family life

ECtHR, [Á.F.L. v. Iceland](#), no. 35789/22, 10 June 2025²¹

Facts – The case concerned the decision to deprive the applicant, diagnosed with autism spectrum disorder, attention deficit hyperactivity disorder and a mild intellectual disability, of custody of his daughter. In so doing, the domestic court highlighted that various and extensive measures had been put in place to assist him in caring for his daughter. However, the child's needs had not been met. The applicant complained that the domestic authorities had violated the prohibition of discrimination by failing to explore and adopt measures to assist him in taking care of his daughter, therefore unjustifiably denying him reasonable accommodation which had resulted in his being deprived of custody.

Law – The ECtHR emphasised that, referring to the UNCRPD, Article 14 of the ECHR had to be read in the light of the requirements of those texts regarding "reasonable accommodation" which people with disabilities are entitled to expect in order to ensure "the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms". It reiterated that reasonable accommodation helped to correct factual inequalities and that its denial may amount to discrimination. The ECtHR was aware that each person with a disability had specific needs, and it acknowledged that reasonable accommodation may take a variety of forms and emphasised that it was not its task to define the measures to be implemented. The national authorities, by reason of

²¹ Judgment not yet final.

their direct and continuous contact with the vital forces of their countries, are in principle better placed than an international court to evaluate individual and local needs and conditions in this regard. As regards parents with disabilities, it acknowledged that they must not be perceived as lacking sufficient parenting skills and capacity, and that they must not be deprived of custody of their children only with reference to their disability and without assessing its impact on their ability to provide parental care. However, it was important to bear in mind that the scope and extent of reasonable accommodation afforded to parents in the light of their disability is necessarily shaped and limited, not only by the considerations relating to a “disproportionate or undue burden”, but also and above all by the paramount consideration of the best interests of the child. In the present case, it was clearly demonstrated that the Icelandic authorities were alert and aware of the situation and the applicant’s diagnosis, and that they implemented multiple individualised measures aimed at strengthening his ability to provide parental care for his daughter. Those measures included a stay of almost four months at a residential facility for diagnosis, guidance and practice, five months of specialised support from counsellors in the applicant’s home, engaging the services of a support family to ease the burden on the applicant, and providing the applicant with counselling on how to strengthen his relationship with his daughter and continuous counselling and therapy from a psychologist. The ECtHR was then unable to accept the applicant’s assertion that the Icelandic authorities failed to protect him from discrimination by failing to take into account his impairment and provide him with reasonable accommodation. The ECtHR noted that the best interests of the child required that the applicant be deprived of custody, and that in view of the negative impact of his custody on her well-being, his rights had been reasonably and justifiably restricted.

Conclusion – No violation of Article 14 taken in conjunction with Article 8 of the ECHR.