



Reasonable accommodation: ensuring rights begins with a DIALOGUE

Guidelines for regulation and practice in
Lithuania, Latvia, and Sweden

Lithuanian Disability Forum
Independent Living Institute
SUSTENTO

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Introduction

These guidelines aim to deepen the understanding of reasonable accommodation and promote its practical application as the fundamental element of equality and non-discrimination for persons with disabilities in Lithuania, Latvia, and Sweden. Grounded in the principles of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the guidelines highlight reasonable accommodation not only as a legal obligation but also as a practical tool to ensure meaningful participation and inclusion of persons with disabilities in all areas of life. Reasonable accommodation is essential for achieving equality, addressing systemic barriers and individual needs, and promoting inclusion. While the gradual realization of accessibility standards may take time, reasonable accommodation can accelerate progress by providing immediate solutions to equality and accessibility. When denied, it becomes a distinct form of disability discrimination.

The concept of reasonable accommodation is one of the key horizontal principles of the UNCRPD. However, in Lithuania and Latvia, it has been only partially legislated, primarily within the scope of employment, as required by the EU Employment Equality Directive. In both countries, the UN Committee on the Rights of Persons with Disabilities (hereinafter – the Committee) recommended that the denial of reasonable accommodation be recognized as discrimination—Lithuania in 2016, and Latvia in 2017. Although both countries have monistic legal systems, which make the UNCRPD directly applicable upon ratification, it is rarely applied in practice, and comprehensive legislation in areas like education, healthcare, and justice is lacking.

In contrast, Sweden has made more visible progress in realizing the right to reasonable accommodation. The Independent Living Institute in Sweden, a key partner in this project, has developed important resources, including a report based on the *Sahlin v. Sweden* case¹. However, Sweden's dualistic

¹ Ola Linder, „Reasonable accommodation, interpreting services and Independent Living – An investigation concerning paths to participation in parity for the deaf and hearing impaired, and for those with deafblindness, in working life and beyond“, 8 March 2021, https://www.independentliving.org/files/Independent-Living-med-tolkttjanst-i-arbetslivet-och-bortom-english_0.pdf

legal system requires the incorporation of international treaties like the UNCRPD into national law before they can take effect. Despite progress, Sweden's concept of "adequate accessibility" in the Discrimination Act (2008:567) does not fully align with the UNCRPD. The UN Committee issued recommendations in 2024 urging Sweden to introduce an express guarantee of reasonable accommodation, applicable across all areas of law, highlighting the need for alignment with the UNCRPD.

Acknowledging the gap between legal obligations, practice, and the lack of general awareness on the principle of reasonable accommodation in Lithuania, Lithuanian Disability Forum initiated a cross-national project, funded by the Nordic Council of Ministers' Grant Programme, to promote the regulation and practical application of reasonable accommodation. The project involved a comparative analysis of the legislation and practices in Lithuania, Latvia, and Sweden, completed in close cooperation with Latvian SUSTENTO and Independent Living from Sweden, with a particular focus on workplace, education, and healthcare. The results of this analysis were presented in a Public Forum, initiated by the Commission for Monitoring the Rights of Persons with Disabilities at the Office of the Equal Opportunities Ombudsperson in Lithuania and organised together with the Lithuanian Disability Forum. Held on December 12, 2024, at the Presidential Palace of Lithuania, the forum aimed to deepen the understanding of reasonable accommodation and encourage its practical application. Following the forum, the guidelines were further refined, incorporating additional perspectives from the justice system and goods and services sectors—areas that were identified as crucial to the realization of reasonable accommodation.

This publication draws on General Comments No. 6 on equality and non-discrimination² and No. 2 on accessibility³ by the UN Committee on the Rights of Persons with Disabilities and other relevant UNCRPD jurisprudence. The development of these guidelines was also informed by the European Commission's "Reasonable accommodation at work – Guidelines and good practices"⁴ and the EQUINET publication "Reasonable Accommodation for Persons with Disabilities: Exploring Challenges

² Committee on the Rights of Persons with Disabilities, General comment No. 6 (2018) on equality and nondiscrimination, CRPD/C/GC/6, <https://docs.un.org/en/CRPD/C/GC/6>

³ Committee on the Rights of Persons with Disabilities, General comment No. 2 (2014), CRPD/C/GC/2

⁴ European Commission: Directorate-General for Employment, Social Affairs and Inclusion (2024), *Reasonable accommodation at work – Guidelines and good practices*, Publications Office of the European Union, <https://data.europa.eu/doi/10.2767/359088>

Concerning Its Practical Implementation”⁵, from which many of the case examples are drawn, as well as other guidelines⁶.

Despite the guidance provided, there remains considerable uncertainty regarding the scope of reasonable accommodation measures, their distinction from and relationship to accessibility requirements, the criteria for determining what constitutes a ‘reasonable’ measure, and whether such measures should be initiated proactively or provided in response to a request⁷. Furthermore, there is a lack of guidance on applying the principle in various fields other than employment. By combining legal insight with actionable guidance, this publication aims to promote a deeper and more consistent application of reasonable accommodation, ensuring persons with disabilities can enjoy their rights on an equal basis with others. It is intended for a broad audience, including policymakers, legal professionals, service providers, educators, persons with disabilities, and their advocates in Lithuania, Latvia, Sweden, and beyond.

These guidelines are divided into four chapters. The first chapter, *Reasonable Accommodation and the Principle of Non-Discrimination in the UNCRPD Jurisprudence*, provides an overview of the legal foundations of reasonable accommodation, focusing on its connection to non-discrimination as outlined in the UN Convention on the Rights of Persons with Disabilities (UNCRPD), drawing from General Comments No. 6 and No. 2, and relevant CRPD jurisprudence. The second chapter, *The Principle of Reasonable Accommodation in Practice*, offers step-by-step guidance on the practical application of the principle—from recognising disability and identifying individual requirements, to initiating dialogue and assessing potential undue or disproportionate burden. It also includes a checklist summarising the key steps to ensure effective implementation. The third chapter, *Guidelines on the Implementation of Reasonable Accommodation*, provides general guidance and suggestions for applying reasonable accommodation across different sectors, offering insights into the types of measures that may typically be required. The fourth chapter, *Examples*

⁵ Equinet, European Network of Equality Bodies (2021), *Reasonable Accommodation for Persons with Disabilities: Exploring challenges concerning its practical implementation*, ISBN 978-92-95112-46-9 (Online), Equinet Secretariat, Brussels, Belgium.

⁶ Ugnė Grigaitė (2020) „Tinkamas sąlygų pritaikymas žmonėms su negalia – kaip tai įgyvendinti darbovietėje“, https://hrmi.lt/wp-content/uploads/2020/11/SalyguPritaikymas_A53mm-zalias-WEB-2.pdf; European Commission (2020) „How to put reasonable accommodation into practice – guide of promising practices“ <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8341&furtherPubs=yes>

⁷ Equinet, 2021, p. 8.

of Reasonable Accommodation, draws on the EQUINET publication “Reasonable Accommodation for Persons with Disabilities: Exploring Challenges Concerning Its Practical Implementation,” featuring case studies from the Compendium of Case Law. These cases illustrate key aspects of reasonable accommodation, with some rephrased for clarity.

We hope that these guidelines will become a necessary impulse to integrate reasonable accommodation in legal systems and actively apply it in practice in all three partner countries.

These guidelines are published in three languages: English, Lithuanian, and Latvian.

Reasonable accommodation and the principle of non-discrimination in the UNCRPD jurisprudence

This chapter aims to explain the concept of reasonable accommodation as a fundamental principle of equality and non-discrimination under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). It outlines key legal principles and considerations provided by the UN Committee on the Rights of Persons with Disabilities (the Committee). It mostly draws upon General Comments No. 6 and 2 (hereinafter GC 6 and GC 2) and other CRPD jurisprudence.

This chapter primarily targets readers who are keen on understanding the reasonable accommodation through the legal aspects and principles of international human rights law. If you are more interested in the practical aspects of reasonable accommodation or are already well-versed in General Comment No. 6 and its legal implications, feel free to skip this chapter and move directly to the practical part of the guidelines.

Chapters 2, 3, and 4 will provide more practical recommendations for the application of reasonable accommodation, including real-life examples to illustrate the process.



The evolution of equality in human rights law

The principle of equality and non-discrimination is a manifestation of all persons being equal in their individual freedom and rights - an underlying principle of all human rights. In the context of disability rights, equality is closely intertwined with human dignity, a concept that is most prominently embodied in the UNCRPD.

The UNCRPD (2006) does not really create any new human rights specifically for people with disabilities, instead it offers clear guidance on the specific implications of implementation of various human rights for persons with disabilities. The Convention outlines the necessary adjustments and accommodations to ensure that individuals with disabilities can fully exercise their rights. It also identifies instances where

these rights have been violated and emphasizes the need to strengthen protections to uphold them. As a result, the UNCRPD is widely regarded as the cornerstone of disability rights, often referred to by advocates as the “Constitution” of disability rights.

The equality and non-discrimination principles of the UNCRPD represent the evolution of non-discrimination law. The UNCRPD equality and non-discrimination principle is based on the concept of “**equality of opportunities**”, the fundamental principle in disability rights. It represents a significant paradigmatic shift from a **formal model of equality** to a **substantive model of equality**⁸.

- **Formal equality** seeks to combat direct discrimination by treating persons in a similar situation similarly. It may help to combat negative stereotyping and prejudices, but it cannot offer solutions for the “dilemma of difference”, as it does not consider and embrace differences among human beings.
- **Substantive equality**, by contrast, also seeks to address structural and indirect discrimination and takes into account power relations. It acknowledges that the “dilemma of difference” entails both ignoring and acknowledging differences among human beings in order to achieve equality.

This shift is reflected in the wording of the UNCRPD compared to other human rights documents. For instance, the Universal Declaration of Human Rights and several other international treaties emphasize “equality before the law”, proclaiming that everyone is equal in dignity and rights, and condemns discrimination on a non-exhaustive number of grounds⁹. However, applying these principles under a formal model of non-discrimination does not guarantee effective protection and participation for people with disabilities.

Simply treating people with disabilities the same as others does not ensure their full inclusion. While equal treatment can help combat negative stereotypes, the formal model of equality has often ignored the unique requirements and differences of people with disabilities, resulting in exclusion, inequality, and systemic discrimination. For a person with a disability to fully benefit from the same service as someone without a disability, adjustments or modifications may be needed, such as removing physical barriers or making changes to rules, procedures, or formats. These accommodations help create the conditions for meaningful participation of persons with disabilities on an equal basis with others. In many cases, it is considered reasonable accommodation.

⁸ Committee on the Rights of Persons with Disabilities, General comment No. 6, para. 10.

⁹ Committee on the Rights of Persons with Disabilities, General comment No. 6, para. 14.

As explained by the Committee, the phrase “**equality under the law**” is unique to the UNCRPD¹⁰. It refers to the right of individuals to participate in legal relationships and use the law to their personal benefit. It means that persons with disabilities are entitled to effective protection and the opportunity to fully engage with the law. The law must ensure the substantive equality of all individuals within its jurisdiction. Therefore, recognizing that all persons with disabilities are equal under the law implies that there should be no laws that deny, restrict, or limit their rights. Additionally, disability should be integrated into all legislation and policies.



Reasonable accommodation as a principle of non-discrimination

Reasonable accommodation is one of the key principles of the UNCRPD. It is defined in the Article 2 of the UNCRPD as one of the key concepts:

“Reasonable accommodation” means 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



The Convention on the Rights of
Persons with Disabilities, Article 2

Reasonable accommodation is also referenced in the definition of “Discrimination on the basis of disability”, linking it directly to the principle of non-discrimination:

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, 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. It includes all forms of discrimination, **including denial of reasonable accommodation.**



The Convention on the Rights of
Persons with Disabilities, Article 2

¹⁰ Committee on the Rights of Persons with Disabilities, General comment No. 6, para. 14

Reasonable accommodation is further enshrined in Article 5 as the principle of non-discrimination and also applied horizontally throughout the whole Convention. It is seen as one of the key means to achieve certain rights: Liberty and security of the person (Article 14), Education (Article 24), Work and employment (Article 27). The right to justice is another key area to ensure reasonable accommodation, however the Committee has noted that “procedural accommodations” referred to in Article 13 of the UNCRPD “are distinguishable from reasonable accommodation in that procedural accommodations are not limited by disproportionality”¹¹. This consideration further emphasizes the importance of reasonable accommodation in the justice system.

The denial always concerns a specific person with a disability and a particular situation. Denial of reasonable accommodation is considered a *sui generis* form of discrimination on the grounds of disability. The situation should be considered a denial of reasonable accommodation when **necessary and appropriate** modification and adjustments, which do **not impose disproportionate or undue burden**, are **denied**. The necessary adjustments in that case are to be required to ensure the equal enjoyment or exercise of a human right or fundamental freedom.

The UNCRPD does not set a concrete limit to which the burden would be considered disproportionate or undue. Each situation should be evaluated individually, assessing the proportionate relation between the realization of the right in question and the means necessary to achieve it. The costs should also be evaluated in proportional relation to **all** available sources, including public funding, the size of the accommodating party (in its entirety) and other factors (see “The implementation of reasonable accommodation”, page 15).

In general, the Committee identifies four distinct forms of discrimination on the ground of disability and provides explanations to each of them:

- a) **Direct discrimination** occurs when, in a similar situation, persons with disabilities are treated less favourably than other persons because of a different personal status in a similar situation for a reason related to a prohibited ground. Direct discrimination includes detrimental acts or omissions based on prohibited grounds where there is no comparable similar situation. The motive or intention of the discriminating party is not relevant to a determination of whether discrimination has occurred. For example, a State school that refuses to admit a child with disabilities in order not to change the scholastic

¹¹ Committee on the Rights of Persons with Disabilities, General comment No. 6, para. 51.

programmes does so just because of his or her disability and is an example of direct discrimination;

- b) **Indirect discrimination** means that laws, policies or practices appear neutral at face value but have a disproportionate negative impact on a person with a disability. It occurs when an opportunity that appears accessible in reality excludes certain persons owing to the fact that their status does not allow them to benefit from the opportunity itself. For example, if a school does not provide books in Easy-Read format, it would indirectly discriminate against persons with intellectual disabilities, who, although technically allowed to attend the school, would in fact need to attend another. Similarly, if a candidate with restricted mobility had a job interview on a second floor office in a building without an elevator, although allowed to sit the interview, the situation puts him/her in an unequal position;
- c) **Denial of reasonable accommodation**, according to article 2 of the Convention, constitutes discrimination if the necessary and appropriate modification and adjustments (that do not impose a “disproportionate or undue burden”) are denied and are needed to ensure the equal enjoyment or exercise of a human right or fundamental freedom. Not accepting an accompanying person or refusing to otherwise accommodate a person with a disability are examples of denial of reasonable accommodation;
- d) **Harassment** is a form of discrimination when unwanted conduct related to disability or other prohibited grounds takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. It can happen through actions or words that have the effect of perpetuating the difference and oppression of persons with disabilities. Particular attention should be paid to persons with disabilities living in segregated places, such as residential institutions, special schools or psychiatric hospitals, where this type of discrimination is more likely to occur and is by nature invisible, and so not likely to be punished. “Bullying” and its online form, cyberbullying and cyberhate, also constitute particularly violent and harmful forms of hate crimes. Other examples include (disability-based) violence in all its appearances, such as rape, abuse and exploitation, hate-crime and beatings.

Committee on the Rights of Persons with Disabilities,
General comment No. 6 (2018) on equality and nondiscrimination,
CRPD/C/GC/6, <https://docs.un.org/en/CRPD/C/GC/6>, para. 18.

The rights to equality and non-discrimination are fundamental to the international protections provided by the UNCRPD. While some rights of persons with disabilities under the UNCRPD, such as general accessibility of infrastructure are implemented progressively, the **right to equality and non-discrimination is of immediate realisation**¹². This means that states have immediate obligations to realise substantive and cross-cutting rights such as equality and non-discrimination. These overarching rights are not subject to progressive realisation. Since the UNCRPD prohibits *de jure* or *de facto* discrimination in any field regulated and protected by public authority, this duty also extends to the private sector (see article 4 (1) (e)).



Reasonable accommodation as the duty to provide accessibility

Reasonable accommodation implies not only the principle of non-discrimination, but is one of the two key duties to provide accessibility. Accessibility is considered by the Committee in the context of the right to access from the specific perspective of disability and should be implemented by gradually removing barriers in a systematic way, with the aim of achieving full accessibility¹³.

Persons with disabilities face technical and environmental — in most cases, human-built environmental — barriers such as steps at the entrances of buildings, the absence of lifts in multi-floor buildings and a lack of information in accessible formats. Such artificial barriers are often the result of a lack of information and technical know-how rather than a conscious will to prevent persons with disabilities from accessing places or services intended for use by the general public.



Committee on the Rights of Persons with Disabilities,
General comment No. 2 (2014), CRPD/C/GC/2, para. 33



The Committee has identified two situations in which lack of accessibility has prevented a person with disabilities from accessing a service or facility open to the public, which, at a minimum, should be recognized in accessibility legislation as prohibited acts of disability-based discrimination:

¹² Committee on the Rights of Persons with Disabilities, General comment No. 6, para. 12.

¹³ Committee on the Rights of Persons with Disabilities, General comment No. 2 (2014), CRPD/C/GC/2, para. 14

1. When the service or facility was established after relevant accessibility standards were introduced.
2. Where access could have been granted to the facility or service through reasonable accommodation.¹⁴

According to the General Comment No. 2 of the CRPD, accessibility has two approaches: accessibility and reasonable accommodation. Both approaches are like two sides of a coin. They closely relate to one another: when given accessibility elements are insufficient for a person with disability, the duty to provide reasonable accommodation is enforced. Both of these duties are imperative for the effective realisation of accessibility.

Accessibility (*ex ante* duty) including the principle of universal design, is related to groups. The regulation of accessibility is generally meant for the general public and involves standardized accessibility requirements intended for certain groups of persons with disabilities. State parties are obliged to take all appropriate measures to implement accessibility, including regulations, consistent planning, and progressive implementation in practice.

Reasonable accommodation, being the *ex nunc* duty of accessibility (meaning “from now on”), is enforceable from the moment an individual with a disability requires it in a given situation, for example, workplace or school, in order to enjoy their rights on an equal basis in a particular context.

As the Committee explained in GC 6, the duty to provide reasonable accommodation can be broken down into two constituent parts¹⁵:

1. Positive legal obligation to provide a reasonable accommodation which is a modification or adjustment that is necessary and appropriate where it is required in a particular case to ensure that a person with a disability can enjoy or exercise their rights.
2. Those required accommodations shall not impose a disproportionate or undue burden on the duty bearer.

Both duties of providing accessibility relate to one another. Because the gradual and progressive realization of accessibility may take time, reasonable accommodation may be used as a means to provide access to an individual in the meantime. It may also accelerate accessibility as a reasonable accommodation might become a collective good.

¹⁴ Committee on the Rights of Persons with Disabilities, General Comment No. 2, para. 31

¹⁵ Committee on the Rights of Persons with Disabilities, General comment No. 6, para. 25.

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

The Convention on the Rights of
Persons with Disabilities, Article 2

Accessibility and universal design standards may not include the accessibility requirements of people with rare impairments or those who do not use the means of accessibility. Several examples of this include people who do not read Braille, do not use Sign language or don't have the necessary technological literacy skills required to use a screen reader or another computer application. Although accessibility standards may not include all of the requirements of these individuals, the principle of reasonable accommodation applies and is supposed to fill this gap between the requirement and lack of accessibility.

Another key attribute of reasonable accommodation is dialogue between the duty bearer and the person, whereas general accessibility should be regulated through standardisation.



The implementation of reasonable accommodation

The UNCRPD Committee has consistently urged State parties to establish denial of reasonable accommodation as a form of discrimination in national equality and non-discrimination laws. Observations that State parties fail to acknowledge that the denial of reasonable accommodation constitutes discrimination has been one of the key concerns expressed throughout the jurisprudence of the Committee.

UNCRPD in 2016 recommended that Lithuania recognize the denial of reasonable accommodation as a form of discrimination on the basis of disability¹⁶. The same recommendation was provided to Latvia in 2017¹⁷.

¹⁶ Committee on the Rights of Persons with Disabilities (2016) Concluding observations on the initial report of Lithuania, [CRPD/C/LTU/CO/1](#)

¹⁷ Committee on the Rights of Persons with Disabilities (2017) Concluding observations on the initial report of Latvia, [CRPD/C/LVA/CO/1](#)

Similar observations were given to Sweden in 2014 and 2024 – the Committee recommended Sweden to “express guarantee of reasonable accommodation consistent with article 2 of the Convention that is applicable in all areas of the law”¹⁸. None of the three countries have sufficiently aligned their national laws with the UNCRPD regarding the principle of reasonable accommodation. In Lithuania and Latvia, where monistic legal systems integrate international treaties upon ratification, the UNCRPD is directly applicable *de jure*, although rarely applied *de facto*. In contrast, Sweden, with its dualistic legal system, must first incorporate UNCRPD principles into national legislation before they take effect. Since Sweden’s concept of “adequate accessibility” (in the Discrimination Act (*Diskrimineringslagen*), 2008:567) is not completely aligned with the UNCRPD, thus its application is limited and insufficient to protect the rights of persons with disabilities against discrimination, as has demonstrated the case *Richard Sahlin v. Sweden* brought before the Committee in 2018¹⁹ (see Disproportionate or undue burden: a real-life example).

Since the principle of reasonable accommodation is applied case by case and follows various individual criteria when assessing the necessary and appropriate measures as well as disproportionate or undue burden, setting clear and sound regulations is important to ensure implementation.

UNCRPD Committee provided key elements which guide the by-law regulation of the duty to provide reasonable accommodation in its General Comment No. 6 (2018):

- a) Identifying and removing barriers that have an impact on the enjoyment of human rights for persons with disabilities, in dialogue with the person with a disability concerned;
- b) Assessing whether an accommodation is feasible (legally or in practice) — an accommodation that is legally or materially impossible is unfeasible;
- c) Assessing whether the accommodation is relevant (i.e., necessary and appropriate) or effective in ensuring the realization of the right in question;

¹⁸ Committee on the Rights of Persons with Disabilities (2024) Concluding observations on the combined second and third periodic reports of Sweden, [CRPD/C/SWE/CO/2-3](#); Committee on the Rights of Persons with Disabilities (2014) Concluding observations on the initial report of Sweden, [CRPD/C/SWE/CO/1](#).

¹⁹ *Richard Sahlin v. Sweden*, Committee on the Rights of Persons with Disabilities, Views adopted by the Committee under article 5 of the Optional Protocol, concerning communication No. 45/2018, [CRPD/C/23/D/45/2018](#)

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- d) Assessing whether the modification imposes a disproportionate or undue burden on the duty bearer; the determination of whether a reasonable accommodation is disproportionate or unduly burdensome requires an assessment of the proportional relationship between the means employed and its aim, which is the enjoyment of the right concerned;
- e) Ensuring that the reasonable accommodation is suitable to achieve the essential objective of the promotion of equality and the elimination of discrimination against persons with disabilities. A case-by-case approach based on consultations with the relevant body charged with reasonable accommodation and the person concerned is therefore required. Potential factors to be considered include financial costs, resources available (including public subsidies), the size of the accommodating party (in its entirety), the effect of the modification on the institution or the enterprise, third-party benefits, negative impacts on other persons and reasonable health and safety requirements. Regarding the State party as a whole and the private sector entities, overall assets rather than just the resources of a unit or department within an organizational structure must be considered;
- f) Ensuring that the persons with a disability more broadly do not bear the costs;
- g) Ensuring that the burden of proof rests with the duty bearer who claims that his or her burden would be disproportionate or undue.

Committee on the Rights of Persons with Disabilities,
General comment No. 6 (2018) on equality and nondiscrimination,
CRPD/C/GC/6, <https://docs.un.org/en/CRPD/C/GC/6>, para. 26

The principle of reasonable accommodation in practice

This chapter will provide the guidelines of applying the principle of reasonable accommodation in practice. It will guide the process of reasonable accommodation: from recognition of disability, identification of requirements, initiation of dialogue, to evaluating the necessary criteria and possible disproportionate or undue burden will be discussed in detail, step by step. A checklist of the main steps suggested in implementing reasonable accommodation will be provided at the end of this chapter.



Recognition of disability

The definition of disability under the CRPD is quite broad and includes various **long-term impairments** which, **in interaction with various barriers**, may hinder full participation in society. To qualify for reasonable accommodation under the CRPD, the person should have a disability.

This means that:

- the person should have a physical, mental, intellectual or sensory impairment
- the impairment should be long-term

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.



The Convention on the Rights of Persons with Disabilities, Article 1

Reasonable accommodation, being the *ex nunc* duty of accessibility (meaning “from now on”), is enforceable from the moment an individual with a disability requires it in a given situation.

To ensure reasonable accommodation, a clearly defined process must be in place.

As already mentioned, both the public authorities responsible for providing all public services as well as private sector service providers have the duty to provide reasonable accommodation to ensure that a person with a disability can enjoy or exercise their rights in all areas of life.

All those duty bearers - whether public institutions, organisations, bodies, or private enterprises, etc. (Organisations) should have clear regulations in place so that their external services and internal regulations provide clear procedures and define responsibilities related to provision of reasonable accommodation.

This should include procedures on how accommodations should be requested, how the dialogue should be initiated and necessary modifications discussed. Criteria and process of evaluating the proportionality of these measures and exploring alternative solutions should also be set up. All of these procedures should be aimed at ensuring individual's rights in each situation.

Reasonable accommodation can apply both in provision of public services (external) as well as within work/study or other long-term relationship between the person and the organisation.

All the stages of this process will now be discussed.



Identification of requirements

Organisations should have clear procedures on how persons with disabilities could request reasonable accommodation. These procedures should be communicated in appropriate accessible ways and formats.

The need for reasonable accommodation might be a) **obvious** or b) **known only to the person** with a disability. In both cases the process of reasonable accommodation should be initiated.

When the need for accommodations is obvious for the organisation, the responsible persons should offer accommodations to the person in question. The need for accommodation may be evident visually, also indicated in written form, such as registration forms, applications, employment contracts, student records, and other documents or information systems that contain details about the individual's disability. In cases where the relationship between the individual and the organisation or body is long-term, it is recommended that the agreement to provide specific modifications or adjustment be confirmed in writing — for example,

through a reasonable accommodation plan. In cases where the relationship is of short duration, the agreement is not necessary (e.g. shops or one-time services).

For example, if a person using a wheelchair attempts to access a building or space that is inaccessible, an alternative accessible entrance or lift should be offered. Similarly, if a blind student has informed the university about their disability and registers for a selective course, the university should provide lecture slides and other materials in accessible formats, such as those compatible with screen reader technology. If the preferred format is unclear — such as whether Braille or screen reader technology is preferred — the university or lecturer should inquire about the student's preference in advance.

When the need for reasonable accommodation is not evident for the organisation, the person can make a request to initiate the dialogue. The need can be communicated by the person in different appropriate ways, including informally and formally, in writing, orally or in other ways of communication.

Sometimes the request can be made by the person's representatives.

In the request, these aspects should be included:

1. Explanation of the disability
2. Explanation on why accommodations are needed
3. Explanation on what accommodations are needed

Generally, there is no need for documentation to be provided. However, in certain situations where there is a need to prove the disability and/or particular requirements, the procedures should be clearly regulated. All disability-related data handling procedures must abide by data protection rules and principles.

How reasonable accommodation could be requested:

real-life example

Tips on how to request reasonable accommodation (United Kingdom)

To show you're a person with disability under the Equality Act, you should:

- say what disability you have
- describe how the environment interferes with, how disability affects your behaviour or your requirements - for example, how it affects your movement or your need for extra support
- explain that the effect of your disability is long term

[...]

In your request, try to make it clear that you're at a disadvantage without any adjustments.

You should try to:

- identify what's causing a problem - for example, it might be an organisation's processes, a feature of their building or a lack of equipment
- explain how the problem is making things difficult for you - for example, it might be making it harder for you to access a service or causing you pain

Direct link: [Citizens Advice. "Asking for reasonable adjustments if you're disabled"](#)

Example

Dear Redhill University,

I have a long-term knee injury from a sports accident. My injury makes it painful to walk for long periods of time and it's been affecting me for over a year. This means I need to park close to where my classes are.

The university parking policy means I have to park far away from my classes. This policy means I'm often late to my classes because I have to walk over slowly to try and reduce the pain or I have to miss my classes.

Please let me know if you can change your parking policy. If you can't, please consider making other changes so I can access my classes. For example, you could let me attend my classes online or give me a mobility aid to help me get to my classes.

I look forward to hearing from you soon.

Many thanks,

Direct link: [Citizens Advice. "Asking for reasonable adjustments if you're disabled"](#)



Initiation of dialogue

Dialogue is a key part of the process of providing reasonable accommodation. The person with a disability is the expert on their own disability-related requirements and should therefore be meaningfully consulted at every stage — from identifying requirements to determining specific modifications and adjustments.

How to initiate and carry out dialogue with the person concerned:

- Ask what kind of barriers or difficulties the person is experiencing related to their disability. Sometimes the person can provide a very specific request immediately, and sometimes it might need both parties to come up with possible solutions.
- In case the need and solution are obvious, proceed to arrange the accommodation and inform the person appropriately.
- In case the specific requirements/measures are unclear or there are several possible options, ask the person what measure or solution would be appropriate. Discuss the options with the person in question to find the best solution for them.



Evaluation of criteria

There are two steps in evaluating reasonable accommodation:

- checking if modifications and adjustments are necessary and appropriate;
- evaluate if this adjustment is “disproportionate or undue”.

What is “necessary and appropriate”?

Reasonable accommodation might be necessary and appropriate in several circumstances:

- When there is a lack of general accessibility (e.g. old buildings or systems which have not been adapted yet).
- When general accessibility or universal design standards do not include the accessibility requirements of the individual person who intends to use the service or environment (e.g. person with rare impairments or requiring more intensive support).
- When general accessibility or universal design standards are not relevant for the person because they do not use the particular means

of accessibility (e.g. people who do not read Braille, do not use Sign language or don't have the necessary technological literacy skills required to use a screen reader or another computer application).

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

”

“

The Convention on the Rights of Persons with Disabilities, Article 2

If reasonable accommodation is needed because of lack of general accessibility, **universal design** can be a guidance to figuring out what reasonable accommodation measures are necessary and appropriate.

In cases where general accessibility is provided but the person requires additional modifications and adjustments, individual solutions aimed at realisation of rights of the person concerned should be found.

The solution should be aimed to ensure full and equal enjoyment or exercise of a human right or fundamental freedom.

The organisation is responsible for working out what reasonable adjustments are required. The person in question should be involved in evaluating whether adjustments or modifications are **necessary and appropriate**, as well as in finding the appropriate solutions.

The dialogue then must be followed up with concrete measures or a plan of measures to be implemented during a specified timeframe.

Various disability-specific factors can determine the appropriateness of the accommodation suggested. The person with disability should determine if a proposed solution is appropriate.

The dignity of the person should always be considered. For instance, carrying a person in a wheelchair manually is not considered a dignified solution and thus is not to be considered as appropriate reasonable accommodation.

What is “disproportionate or undue”?

Disproportionate or undue burden is a concept that sets the limit to reasonable accommodation measures to be provided.

The adjustments and modifications provided as reasonable accommodation should be aimed to ensure the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. The evaluation of disproportionate or undue burden, as well as adjustments and modifications provided **must not deny or contradict these rights** in any way.

This means that while a specific **measure** can be deemed disproportionate or undue, reasonable accommodation cannot be completely denied at this stage.

The need for reasonable accommodation measures more generally is determined when evaluating if reasonable accommodation is necessary and appropriate (see “What is “necessary and appropriate?”).

The evaluation of disproportionate or undue burden should concern specific **measures** but not the decision to provide accommodation in general. For example, the measure to construct a lift could be discussed against alternative measures (e.g. temporarily exchanging a doctor's office to a room on the first floor).

In each case, individual factors should be considered.

A case-by-case approach is required based on consultations with the person concerned and the relevant organisation/institution charged with reasonable accommodation.

One of the factors is the **length** of the relationship between the person and the organisation.

Other potential factors that might be considered include:

- financial costs
- resources available (including public subsidies)
- the size of the accommodating party (in its entirety)
- the effect of the modification on the institution or the enterprise
- third-party benefits
- negative impacts on other persons
- reasonable health and safety requirements.

When considering the financial costs of **public entities**, overall funds and resources available in the system should be considered (not just the resources of a unit/department).

When considering the financial costs of **private entities**, overall assets rather than just the resources of a unit or department within an organizational structure must be considered, including outsource funding possibilities provided by the state or regional actors (e.g. state subsidising programmes or European Union funding possibilities).

Any justification of disproportionate or undue burden must be based on objective criteria.

It should be analysed and communicated in a timely fashion to the person with a disability.

In cases when a specific measure is determined to be disproportionate or undue, alternative measures should be suggested and discussed with the person (see “What is “necessary and appropriate”?”).

Disproportionate or undue burden: a real-life example

The CRPD decision in the case Richard Sahlin v. Sweden

Richard Sahlin, a sign language user, had previously been working as a lecturer in public law. He applied for a lecturing position in Södertörn University and was considered to be the most qualified candidate, but the University cancelled the recruitment process, claiming that it would be too expensive to finance sign language interpretation as a reasonable accommodation measure.

Undue burden assessment in Sweden

Factors considered:

- the cost of sign language interpretation in relation to available resources;
- the effect of the measures;
- the duration of the employment;
- the impact of the measures for the individual or other persons with disabilities;
- available state funding measures for the employer and employee.

After examining these issues, it was concluded that the adjustments would have been too costly.

Undue burden assessment according to the Committee

In January of 2018, after exhausting all domestic remedies, Richard Sahlin made a complaint to the CRPD Committee under the Optional Protocol to the CRPD.

In October 2020, the CRPD Committee adopted views²⁰ that Sweden failed to fulfil its obligations under article 5 (equality and non-discrimination) and article 27 (Work and employment) of the CRPD.

The Committee concluded that the University failed to inquire into other possible accommodation measures.

Additionally, the Committee concluded the university failed to warn Richard Sahlin that State-funded measures were insufficient before deciding to terminate the recruitment.

Richard Sahlin had on several occasions suggested alternatives of reasonable accommodation, including adapted work tasks that would not require sign language interpretation, such as supervising and examining students and web-based instructions. In the absence of dialogue these alternatives were never considered. Instead, reasonable accommodation was denied altogether based on the cost assessment of sign language interpretation.

The Committee's decision provides insights into how the evaluation of disproportionate or undue burden should be carried out. The key takeaway from this decision is that the **process of evaluation must be cooperative and interactive**. Even if one measure seems disproportionate or undue, **different alternatives** of effective and feasible adjustments need to be **identified through dialogue** with the person in question.

²⁰ United Nations, Committee on the Rights of Persons with Disabilities (2020), Views adopted by the Committee under Article 5 of the optional protocol, concerning communication No. 45/2018, [CRPD/C/23/D/45/2018](#).



Checklist of the main steps when providing reasonable accommodation

Step 1: identification of requirements

- ✓ the organisation can identify that the person requires accommodation
- ✓ the person can inform about the required accommodation

Step 2: initiation of dialogue

2.1 when requirements and measures are obvious:

- ✓ inform the person
- ✓ proceed to implementation

2.2 when requirements and measures are unclear:

- ✓ consult with the person
- ✓ person can initiate dialogue by:
 - ✓ Explanation of the disability
 - ✓ Explanation on why accommodations are needed

Step 3: what is necessary and appropriate?

guidelines of what **measures** are needed and appropriate:

- ✓ universal design standards
- ✓ individual disability-related requirements (might exceed universal standards)

Step 4: is the measure disproportionate or undue?

4.1 transparent and objective evaluation process which includes consultations with:

- ✓ the person concerned
- ✓ the body charged with reasonable accommodation

4.2 evaluating criteria related to:

- ✓ financial costs
- ✓ resources available (including public subsidies)
- ✓ the size of the accommodating party (in its entirety)
- ✓ the effect of the modification on the institution or the enterprise
- ✓ third-party benefits
- ✓ negative impacts on other persons
- ✓ reasonable health and safety requirements.

Step 5: the decision:

Communicate the decision in a timely fashion to the person with a disability.

5.1 when the measure is determined disproportionate:

- ✓ alternative measures should be suggested and discussed with the person
- ✓ start again at step 3: what is necessary and appropriate

5.2 when measure is not determined disproportionate:

- ✓ concrete measures should be implemented during a specified time-frame.
- ✓ if new measures are needed, start again at step 1.

Guidelines on implementation of reasonable accommodation



Application of Reasonable Accommodation Across Sectors

This chapter provides some guidelines to applying reasonable accommodation across different sectors and offers suggestions on what measures can generally be required.



Workplace²¹

Objective: Ensure employees with disabilities can perform their jobs effectively and without discrimination.

- Implement flexible work arrangements including part-time schedules and telework options.
- Ensure an accessible work environment with ergonomic and adaptive office equipment.
- Provide assistive technology and communication support tailored to individual employee requirements.
- Modify job responsibilities where necessary and offer reasonable adjustments to work expectations.
- Promote inclusive policies, including awareness training and clear anti-discrimination measures.



Educational Institutions

Objective: Foster inclusive learning environments.

- Offer flexible learning arrangements, including self-paced courses and alternative assignment submission methods.

²¹ For more examples on reasonable accommodation in employment, see European Commission: Directorate-General for Employment, Social Affairs and Inclusion (2024), *Reasonable accommodation at work – Guidelines and good practices*, Publications Office of the European Union, <https://data.europa.eu/doi/10.2767/359088>

- Ensure classrooms are physically accessible and conducive to all learners.
- Develop Individualized Education Plans (IEPs) to support students with diverse learning requirements.
- Provide necessary assistive technologies, such as adaptive learning software and screen magnifiers.
- Train educators on how to implement inclusive teaching methodologies effectively.



Healthcare

Objective: Ensure equitable medical access.

- Establish clear communication and accessibility practices, ensuring medical information is available in multiple formats.
- Implement flexible scheduling to accommodate patients with disabilities, including priority appointments and extended consultation times.
- Use assistive technology such as accessible health record systems, voice-to-text software for consultations, and telemedicine services.
- Ensure emergency preparedness plans are inclusive, with clear evacuation strategies for patients with mobility or cognitive impairments.



Justice

Objective: Ensure equal access to legal services and fair treatment in the justice system for persons with disabilities²².

- Provide accessible courtrooms with accommodations such as sign language interpreters, captioning services, or alternative methods for participating in proceedings for individuals with hearing or speech disabilities.
- Make available assistive technologies such as audio descriptions, screen readers, or alternative documents formats for individuals with visual impairments.

²² In the Article 13 of the UNCRPD, it is enshrined that procedural accommodations should be provided for persons with disabilities to facilitate effective role as participants in legal proceedings. The “procedural accommodations”, according to the Committee in General Comment No. 6, are distinguishable from reasonable accommodation in that procedural accommodations are not limited by disproportionality (GC 6, 2018, para. 51).

- Offer extended deadlines for legal filings and proceedings to individuals with cognitive or physical disabilities.
- Ensure that legal documents are provided to persons with disabilities in accessible formats (Braille, large print, or digital formats).
- Train legal professionals, judges, and court staff on disability rights and the principle of reasonable accommodation.
- Develop a clear, confidential process for individuals to request accommodations, with a timely response and without fear of discrimination or retaliation.
- Ensure that people with disabilities have equal access to public defenders and legal assistance, providing necessary accommodations to communicate effectively with legal counsel.



Possible Reasonable Accommodation measures

1. Flexibility

- **Workplace:** Modify work hours for disability-related requirements, allow remote work, and offer part-time or flexible scheduling to support employees with disabilities. Encourage hybrid work models where feasible.
- **Educational Institutions:** Provide extended time for assignments and exams, offer alternative formats such as audio and Braille materials, and allow flexible attendance policies to accommodate disability-related requirements.
- **Healthcare:** Allow extended appointment times for patients with disabilities requiring additional assistance, provide telehealth options, and implement home healthcare services for individuals with mobility disabilities.

2. Physical Accessibility

- **Workplace:** Install ramps, elevators, ergonomic furniture, and accessible restrooms. Make workstations adjustable and provide designated accessible parking.
- **Educational Institutions:** Adapt classroom layouts to allow space for mobility aids, install assistive technology such as hearing loops and adjustable desks, and ensure accessible pathways and doorways.
- **Healthcare:** Equip facilities with adjustable exam tables and diagnostic equipment, provide accessible waiting areas, accessible registration technologies, and ensure easy access to emergency rooms and consultation rooms.

3. Assistive Technology

- **Workplace:** Provide screen readers, speech-to-text software, accessible workplace tools, and ensure IT systems are compatible with assistive devices.
- **Educational Institutions:** Use screen readers, adaptive devices such as Braille displays and alternative keyboards, and ensure e-learning platforms meet accessibility standards.
- **Healthcare:** Ensure patient portals are accessible, use hearing aids and communication boards for non-verbal patients, and implement speech-to-text technology for consultations.

4. Communication Support

- **Workplace:** Provide sign language interpreters for meetings and training sessions, captioning for video content, and plain language materials for all employees.
- **Educational Institutions:** Offer note-takers, sign language interpreters, and inclusive teaching materials that incorporate multiple communication formats.
- **Healthcare:** Use interpreters for medical consultations, provide medical documents in accessible formats such as Braille and large print, and ensure clear communication between providers and patients with speech disabilities.

5. Inclusive Policies and Training

- **Workplace:** Conduct regular anti-discrimination and disability awareness training, provide anonymous reporting systems for complaints, and implement inclusive hiring practices.
- **Educational Institutions:** Train educators in inclusive teaching practices, create a culture of inclusivity among students, and ensure non-discriminatory policies in admissions and curriculum design.
- **Healthcare:** Train medical staff on disability etiquette and patient-centered care, ensure compliance with accessibility standards, and integrate disability rights education into healthcare training programs.

6. Job and Curriculum Modification

- **Workplace:** Redesign job duties by allowing task redistribution, provide additional training or mentorship programs, and offer career development opportunities for employees with disabilities.

- **Educational Institutions:** Develop Individualized Education Plans (IEPs) to tailor learning experiences to student requirements, implement universal design for learning (UDL) principles, and offer alternative assessment methods.

7. Emergency Preparedness

- **Workplace:** Ensure evacuation plans include considerations for employees with mobility, sensory, and cognitive disabilities, and conduct regular emergency drills with inclusive procedures.
- **Educational Institutions:** Adapt emergency procedures to accommodate students with disabilities, install visual and auditory alert systems, and train staff on assisting students in emergencies.
- **Healthcare:** Implement accessible emergency communication methods, ensure emergency exits and shelters are wheelchair-accessible, and prepare emergency response teams with disability-inclusive strategies.

Chapter 4

Examples of reasonable accommodation

This chapter is based on the publication by the EQUINET (European Network of Equality Bodies): “Reasonable Accommodation for Persons with Disabilities: Exploring challenges concerning its practical implementation”²³.

Most of the cases provided below are selected from the Compendium of Case Law provided in the annex of the EQUINET publication²⁴.

The cases summarised by EQUINET were used to illustrate certain aspects of reasonable accommodation (comments emphasise the relevant aspect). Some examples are rephrased and/or shortened for clarity purposes. All cases provided by EQUINET can be found here. We are thankful for EQUINET for their important contribution in European case law of reasonable accommodation.



Goods and services

Prohibition of food consumption in the school cafeteria to celiac students (2017) **Conclusion: Discrimination**

Comment: Failure to provide food which fulfils specific dietary requirements for celiac disease as a reasonable accommodation measure is discrimination on the grounds of disability.

CZECHIA

²³ Equinet, European Network of Equality Bodies (2021), *Reasonable Accommodation for Persons with Disabilities: Exploring challenges concerning its practical implementation*, ISBN 978-92-95112-46-9 (Online), Equinet Secretariat, Brussels, Belgium.

²⁴ Equinet, European Network of Equality Bodies (2021), “Annex: Case law compendium on reasonable accommodation for persons with disabilities” *Reasonable Accommodation for Persons with Disabilities: Exploring challenges concerning its practical implementation*, ISBN 978-92-95112-46-9 (Online), Equinet Secretariat | Rue Royale 138 | 1000 Brussels | Belgium

The case involved the complainant's daughter, who has celiac disease, and her school. In this case, the school did not provide her with food according to her specific dietary requirements, nor allow the consumption of other food in the canteen.

The Public Defender of Rights stated that whether the food preparation would be a disproportionate burden on the school needed to be assessed with a closer knowledge of the costs and possibilities.

The Public Defender of Rights found that not allowing the student to eat food she had brought with her for lunch in the school cafeteria was direct discrimination on the grounds of disability. There is no reason to exclude the girl from the school canteen to consume food she brought herself.

A website incompatible with a screen-reader (2017)

Conclusion: Discrimination

Comment: The service provider must start a dialogue and take appropriate actions when the person with a disability makes a request identifying the barriers to use the service. The person with a disability should always be consulted when deciding which adjustments/modifications are appropriate.

FINLAND

The applicant who had a visual disability considered that he had been discriminated against because the instructions for using transport services which were on the website of Rovaniemi City Travel Service Center were not readable by a screen-reader and because he had been advised by the Service Center to make transport service orders by phone.

The National Non-Discrimination and Equality Tribunal of Finland considered that the City Travel Service Center had indirectly discriminated against the applicant on the basis of disability when the instructions for transport users on the Service Centre's website were not readable by a screen reader. In addition, the tribunal found that the city had failed in its duty to consider the need for reasonable accommodations in the light of the applicant's feedback to the Travel Service Center.

Wheelchair space use policy of a bus (2015)

Conclusion: Discrimination

Comment: The service provider must ensure that procedures for providing reasonable accommodation are properly implemented.

GREAT BRITAIN

Mr. Paulley is a wheelchair user. He flagged down a bus at a bus stop but there was a child in a pram blocking the wheelchair space on the bus. The driver asked the mother to move the pram. She refused. Mr. Paulley was unable to board.

The U.K. Supreme Court stated that the bus company's policy requiring a driver to simply request a non-wheelchair user to vacate the space without taking any further steps was unjustified. Where a driver who has made such a request concludes that a refusal is unreasonable, they should consider some further step to pressure the non-wheelchair user to vacate the space, depending on the circumstances.

A wheelchair user cannot board a bus and is not offered an alternative means of transportation (2018)

Conclusion: Discrimination

Comment: All employees of the service provider should have the knowledge and necessary skills to provide reasonable accommodation according to relevant national/regional regulations and procedures.

SWEDEN

A person with a wheelchair could not board a bus. The bus had been equipped with a wheelchair lift, but the driver did not know how to operate it. The traveller referred to the Region's guarantee that alternate means of transportation would be provided in such cases. The bus driver did not take any action to provide/ ensure such alternative means of transportation.

The Gävle District Court found that the bus driver's lack of knowledge of how to operate the lift in itself was a breach of the prohibition against inadequate accessibility. Furthermore, the Court stated that the fact that the bus driver did not arrange for a taxi was a further breach of the above-mentioned provision.

A library denies access to an electric scooter user (2019)

Conclusion: Discrimination

Comment: The person with a disability should always be consulted when deciding which adjustments/modifications are appropriate. Some modifications may be inappropriate because of individual disability-related requirements.

THE NETHERLANDS

The claimant wanted to use her electric scooter in the library. The library refused, fearing damage to its property and suggested the use of a wheelchair, possibly with a library employee to help her, provided free of charge. This was however not a suitable alternative, as the claimant would be in significant pain to make the transition from her scooter to the wheelchair and would be hindered in moving it forward by herself. The use of a library employee would violate the right to autonomy. Allowing access to the electric scooter was deemed to be the only suitable accommodation.

Taxi company refused to carry customer accompanied by her guide dog (2010)

Conclusion: No discrimination

Comment: In cases where disability is not obvious, it is important for the person to explain that the adjustment/modification is related to disability. The service provider should ask if the modification to the rule is required in relation to disability before refusing service.

IRELAND

The complainant, who has a visual disability and is a guide dog owner, had asked a taxi company to send a taxi for her mother and mentioned that she was to be collected and that she would be accompanied by a dog. However, initially she did not mention that the dog is a guide dog. Possibly the outcome in this instance could have been different had she specified the dog being a guide dog. Also, the taxi company did not take any initiative to ask more about the dog before refusing the taxi service.

Claim against a supermarket based on discriminatory exclusion from its premises (2010) **Conclusion: No discrimination**

Comment: In cases where disability is not obvious, it is important for the person to explain that the adjustment/modification is related to disability.

IRELAND

The dispute concerned a claim by a complainant who had been diagnosed with clinical depression and clinical anxiety who claimed to have suffered discrimination based on disability during the course of an incident at the respondent's premises. The claimant submitted that the respondent supermarket should have become aware of his disabilities, anxiety and depression, given he had been a client for approximately 20 years. The claimant further stated that he had furthermore disclosed his disabilities to a member of the staff. However, given the member of staff had not discussed this with other staff members and was not present at the time of the incident which gave rise to the complaint, this fact was held not to be relevant.

The Equality Officer stated that the service provider would not necessarily conclude that the person had a disability.



Education

Failure to take measures for a nine-year-old student with Asperger's syndrome (2018) **Conclusion: Discrimination**

Comment: The person with a disability should always be consulted when deciding which adjustments/modifications are appropriate. Reasonable accommodation measures for an autistic pupil can include training of staff at school or reviewing the guidance for them.

GREAT BRITAIN

A nine-year-old child had been excluded from school on a few occasions following behaviour that was linked to his Asperger's diagnosis. In relation to his disability, his distress tended to build up and the interventions made by the school did not de-escalate matters, which led to him lashing out and ultimately being excluded. The First-Tier Tribunal for Scotland Health and Education Chamber stated that measures requested would have

been of benefit in the risk assessment process and in clarifying strategies to anticipate difficulties. It also noted that the staff was not equipped to recognize signs of growing anxiety. The Tribunal granted measures, including an apology to the family, training of staff and reviewing guidance.

A school failed to take suitable measures for a pupil who was a wheelchair user in due time (2017) **Conclusion: Discrimination**

Comment: It is essential that reasonable accommodation be provided without undue delay.

SWEDEN

The Göta Court of Appeal ruled on a case concerning a 14-year-old pupil who often needed to use a wheelchair due to a chronic disease. Upon request from the claimant, the school failed to take suitable measures in due time, causing difficulties and stress to the student.

Discrimination against a young woman on the basis of her disability (2021) **Conclusion: Discrimination**

Comment: Failure to provide reasonable accommodation is discrimination on the grounds of disability. Type of disability or age are not valid reasons to decline reasonable accommodation.

LITHUANIA

A young woman with an intellectual disability applied to enroll in a vocational school. Through the general admissions electronic system, she was only able to select one vocational program offered for persons with related disabilities. Although the applicant was invited to sign a contract, she was ultimately not admitted. The educational institution failed to provide the necessary learning conditions (to provide services of an educational support specialist and other requirements) to accommodate her disability. The Ministry of Education, Science and Sports argued that educational support services are only provided to individuals up to the age of 21.

The Supreme Administrative Court of Lithuania has confirmed that the Ministry of Education, Science and Sports, responsible for vocational training and lifelong learning policy, discriminated against a young woman on the basis of her disability.

Turkey, European Court of Human Rights (2016)

Conclusion: Discrimination

Comment: Failure to provide reasonable accommodation is discrimination on the grounds of disability.

TURKEY

A woman wanted to study at a music academy but was rejected because of her visual disability. The academy argued that they did not have the conditions and adaptations for a blind person to study.

Before the Strasbourg Court, the woman claimed that Turkey had violated Article 14 of the ECHR in conjunction with Article 2 of Protocol 1 to the ECHR (right to education).

The court's main conclusion was that there had been discrimination on the grounds of disability including the denial of reasonable accommodation.

Turkey, European Court of Human Rights (2018)

Conclusion: Discrimination

Comment: It is essential that reasonable accommodation be provided without undue delay. However, it should not cause disproportionate or undue burden. In cases where it is impossible to provide the specific adjustment in a short time, other solutions should be explored. It should be done in a close dialogue with the person with disability, until the appropriate measures can be fulfilled.

TURKEY

A first-year student had a spinal cord injury in 2005, so he became a wheelchair user. After suspending his studies in 2007, he returned to the university and asked for the premises to be adapted so that he could continue his studies.

The court did not support the applicant's arguments that the faculty's premises should have been adapted immediately, but at the same time recognized that the university violated the applicant's rights regarding reasonable accommodation.

Claim against a school for the lack of adjustments for a student with diabetes (2016) **Conclusion: No discrimination**

Comment: In cases when it is clear to the organisations that adjustments are necessary, the request is not necessary. However, in cases where the requirements are not clear, the person should make a request for reasonable accommodation.

THE NETHERLANDS

The mother of a student with diabetes brought a claim against the school for failing to make any adjustments for her daughter, such as extra supervision, an extension of the test time or the possibility to take tests at a later time if her glucose levels were not right. The NIHR first noted that while the general rule is that a student or the parents must request an effective adjustment in time, in certain cases in which it is clear to a school that effective adjustments are necessary, the school itself must also take the initiative. However, in this case, the NIHR concluded that the parents did not ask for such adjustments and that in this case the requirements of the pupil were not so clear as to leave no scope for reasonable doubt as to which adjustments were needed from the school. As such, the NIHR concluded there was no discrimination.



Employment

Refusal of reasonable accommodation and contract termination of a cancer-recovering employee (2018) **Conclusion: Discrimination**

Comment: The possible disproportionate or undue burden must be evaluated using objective criteria and due process. All available resources should be used. In case one measure is deemed disproportionate or undue, alternative measures must be explored in dialogue with the person to find the appropriate solutions.

BELGIUM

After an absence for almost two years because of cancer, the employee asked for a progressive resumption of work, including an adapted schedule. However, the employer decided to terminate the employment relationship due to lack of suitable work for her and therefore refusing to make reasonable accommodations.

The Labour Court upheld the lawsuit stating that as the disability was known or should have been known by the employer, the employee is entitled for reasonable accommodation. Additionally, adaptations in the form of progressive resumption of work did not constitute an unreasonable burden for the respondent. Furthermore, the employer did not seek alternative solutions.

Discrimination on the grounds of unjustified denial of reasonable accommodation (2016) **Conclusion: Discrimination**

Comment: The person with a disability should always be consulted when deciding which adjustments/modifications are appropriate. The dignity of the person should always be considered.

CROATIA

The claimant, a lawyer from Rijeka, who is a person with disabilities and a wheelchair user, brought a suit against the Republic of Croatia claiming that the State had discriminated him on the basis of his disability by denying the provision of reasonable accommodation by placing the Administrative Court in Rijeka in a building inaccessible for persons with disabilities.

In its response, the State argued that it offered the claimant two different solutions: to be carried as few steps at the entrance of the building by the court staff and the prosecutor's entourage, as well as offering him the opportunity to hold hearings in one of the other courts that have easier access for persons with disabilities. The claimant declined both offers.

The Municipal Court in Rijeka upheld the lawsuit stating that the proposal offered to the claimant to be carried by the court staff over the steps at the entrance, cannot be considered as a reasonable accommodation in terms of human dignity and respect for the right to equal opportunity.

Dismissal which discriminates against an employee with HIV infection (2013) **Conclusion: Discrimination**

Comment: Reasonable accommodation should be provided in due process, including by identifying necessary and appropriate modifications and finding the solutions in dialogue with the person with a disability. Only objective and substantiated factors and criteria should be considered when evaluating disproportionate or undue burden. Individuals with disabilities must not be placed at a disadvantage due to unsubstantiated concerns and negative attitudes.

GERMANY

A chemical-technical assistant was dismissed. The person claimed that the dismissal discriminated against him because his HIV infection was the sole reason for termination. In response, the employer stated that the dismissal was unavoidable for reasons of occupational safety.

The court noted that it is only at the level of reasonable accommodation that a decision can be made as to whether and how a disability affects working life, and that the determination of the disability must, nevertheless, precede the assessment of what precautions are reasonable for the employer in the specific case. The court held that in the case of a person who has an infectious disease, the employer has to take reasonable precautions enabling the person to work, in addition to being able to prevent any possible risk of infection. The court pointed out that persons with disabilities should not be held at a disadvantage in order to “merely diffuse fears”. Before the employer comes to the conclusion that a person cannot be employed because of their disability, it is necessary to identify concrete risks and explore possible modifications or adjustments.

Denied a request to be exempted from afternoon and night shifts due to diabetes treatment (2018) **Conclusion: Discrimination**

Comment: Disproportionate or undue burden should be evaluated following objective criteria.

GREECE

A nurse working in a hospital in Athens asked to be exempted from afternoon and night shifts because she had diabetes, and she had to have meals and insulin injections four times each day at fixed hours. The Greek Ombudsman observed that the on-call days were approximately 91 per year (365/4), therefore exempting the complainant from afternoon shifts 6 times per year would result in a need for replacement once every 15 on-call days. Based on this, the Greek Ombudsman concluded that granting the requested measure would not impose a disproportionate burden to the hospital and, therefore, the requested measure was reasonable.

A university rejected a deaf job applicant according to financial considerations (2017) **Conclusion: No discrimination**

Comment: The possible disproportionate or undue burden must be evaluated using objective criteria and due process. All available resources should be used. In case one measure is deemed disproportionate or undue, alternative measures must be explored in dialogue with the person to find appropriate solutions.

SWEDEN

Södertörn University wished to recruit an Associate Professor. The applicant, who is deaf, would need approximately 300 hours of educational interpretation and 150 hours of regular interpretation per year to perform the job. The university found this to be too expensive and discontinued the recruitment process. The Labour Court stated that according to the Swedish anti-discrimination regulations, the university is obliged to hire people with disabilities in the public sector and it should also set an example regarding accessibility. However, the Court concluded that the measure was too expensive to be reasonable, considering that the job in question was an ongoing (yearly) and full-time position.

The person brought an individual complaint to the United Nations Committee on the Rights of Persons with Disabilities (UN CRPD). The Committee concluded that the University failed to inquire into other possible accommodation measures through dialogue with the person. (see also in “Disproportionate or undue burden: a real-life example”, page 26).

Recommendations on the provision of reasonable accommodation for a job applicant with an intellectual disability (2020)

Conclusion: Discrimination

Comment: Denial of reasonable accommodation is discrimination. Reasonable accommodation concerns modification regarding form and content in order to provide equal opportunities to exercise human rights. All disability-related barriers and requirements should be evaluated individually in dialogue with the person concerned.

CROATIA

A municipality asked the Office of the Ombudswoman for guidance on how to achieve reasonable accommodation for an applicant who had intellectual disability and had significant difficulty reading in a job recruitment procedure for cleaners which entailed written and oral tests according to the administrative regulation. This request allowed the equality body to clarify i) that the legal provision which lays down the reasonable accommodation duty is *lex specialis* with regards to the regulations concerning recruitment procedures and, therefore, must take precedence over the latter, ii) that adjustments should be made not only regarding the form but also the content of the testing and iii) that reasonable accommodation does not put people with disabilities in a privileged position in the selection process, but provides them with equal conditions and equal opportunities for employment compared to people without disabilities.

An employee with depression alleged discriminatory dismissal (2008) **Conclusion: No discrimination**

Comment: In cases when it is clear to the organisations that adjustments are necessary, the request is not necessary. However, in cases where the requirements are not clear, the person should make a request for reasonable accommodation.

IRELAND

The claimant had been employed for under four months when he took sick leave and was dismissed one month later. The Labour Court found that there had been no breach of the duty to provide reasonable accommodation in these circumstances as the employer did not have knowledge of the worker's depression.

Dismissal of a worker with ADHD for misconduct at work (2013)
Conclusion: No discrimination

Comment: The person with a disability should cooperate in the process of reasonable accommodation.

NORWAY

A person in vocational training who had ADHD was dismissed due to undocumented absence from work, episodes of threats and uncontrolled anger towards colleagues, getting involved in and starting fights with colleagues and being tired at work. The Tribunal commented that even though the duty to provide reasonable accommodation does not depend on a specific diagnosis, the person had waited a long time before informing his employer about it and he had not taken his prescription medications even though these medications had had a good effect on him before. The employer knew about the disability before entering into the contract and had tried to accommodate through different measures, but these had little effect. The Tribunal underlined that the person in question also has a duty to cooperate in order to design measures with good effect, and the Tribunal concluded that he had not cooperated sufficiently. For example, he declined follow-up assistance from a municipal health service team specialising in pedagogical and psychological assistance, in addition to not taking his medicines.

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