DISCRIMINATION ON THE GROUNDS OF DISABILITY AND REASONABLE ACCOMMODATION

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1. What is disability? Obesity? Future illness?
2. What is reasonable accommodation? Equal access?
3. When does protection apply? Outside of labour market? When applying EU law or in all areas of social life?
HUMAN RIGHTS OF PERSONS WITH DISABILITIES

- PWD are disadvantaged group: poverty, exclusion, prejudice
- 10 - 20% adult population have disability
- CRPD 2006, EU Charter, ECHR, FED 2000/78/EU

DEFINITIONS OF DISABILITY

- HR law: long-lasting impairment, inter-action with social barriers, possible limitations in relation to all areas of life
- FED: long-lasting impairment, inter-action with social barriers, possible limitations in relation to professional life
- Social legislation: Severe and long-lasting impairment resulting in actual limitations in relation to private life
MAIN EU COURTS JUDGMENTS
FED 2000/78/EU

- **Chacon Navas**, C-13/05 (limitation in prof life resulting from impairment)
- **Coleman**, C-303/06 (disability of dependent child)
- **Ring and Werge**, C-335 and C-337/11 (limitations resulting from impairment in interaction with barriers which may hinder full and effective participation in prof life)
- **Kaltoft**, C-354/13 (limitations in professional life in general, not work concerned)
- **Z**, C-363/12 (inability to have a child does not limit ability to work)

REASONABLE ACCOMMODATION
FED 2000/78/EU ARTICLE 5

- Special disability-related concept
- Insufficient to disregard disability
- Substantive equality
- Not full accessibility
- Not positive action measures
- **Individual needs**
REASONABLE ACCOMMODATION

- Appropriate measures (recital 20)

**Ring and Werge**, C-335 and C-337/11: reduced working hours, other working tasks

- Not essential functions (recital 17)
- Not disproportionate burden (recital 21)
- Pay?
- Dialogue required on needs of employee

EUROPEAN COURT OF HUMAN RIGHTS

- Glor v Switzerland, 30 April 2009 (military service and penal tax)
- IB v Greece, 3 October 2013 (HIV)
- Çam v Turkey, 23 February 2016 (violation, reasonable accommodation, blind to musical academy)