

## DISCRIMINATION ON THE GROUNDS OF DISABILITY AND REASONABLE ACCOMMODATION

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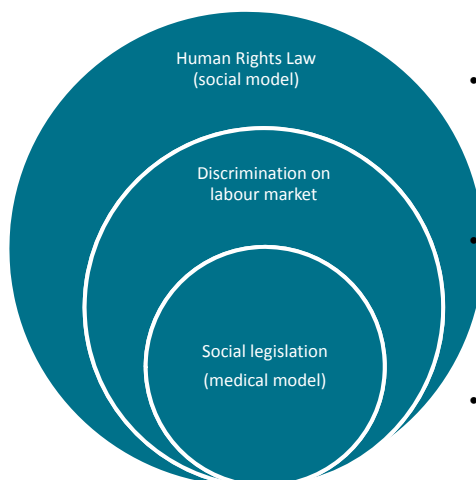
- What is disability? Obesity? Future illness?
- What is reasonable accommodation? Equal access?
- When does protection apply? Outside of labour market? When applying EU law or in all areas of social life?

## 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)