

Using the UNCRPD in litigating cases involving persons with disabilities

The ECHR perspective

European Court of Human Rights - Procedure

Formal requirements

- Rule 47

Admissibility

- 6 months rule
- Exhaustion of domestic remedies
- Competence *ratione loci, temporis, materiae* and *personae*
- Manifestly ill-founded

European Court of Human Rights – Merits and Just Satisfaction

- Communication
- Third party intervention
- Government observations
- Responding to the observations and Article 41 request
- Judgment
- Referral to the Grand Chamber

Introducing CRPD to the European Court

- Directly
 - Applicant
 - Third party intervention
- Indirectly through the Council of Europe
 - CoE HR Commissioner
 - CPT
 - Other CoE bodies
- Indirectly through other channels
 - CRPD Committee
 - Other monitoring mechanisms

Interpretation of CRPD by the ECtHR

- As established “international norm” (see e.g. *Glor v. Switzerland*)
- To “inform” a certain provision of the Convention (see e.g. *S.H.H. v. UK* and dissenting opinions)
- To extend the application of the CRPD to apply to persons with HIV (*Kiyutin v. Russia*)

REASONABLE ACCOMODATIONS

- **Jasinskis v. Latvia** – Failure to provide reasonable accommodations to a sensory deprived person to express his state of health and providing appropriate medical treatment constituted a violation of the right to life (Article 2 of the European Convention)
- **Z.H. v. Hungary** – Failure to provide reasonable accommodations to a person with multiple disabilities to properly communicate with his surroundings constituted inhuman and degrading treatment (Article 3 of the Convention)
- **Dorđević v. Croatia** – Failure to provide counseling to the applicant with a disability, together with the failure to take appropriate steps in relation to the harrasment he had been subject to due to, *inter alia*, his disability constituted inhuman and degrading treatment
- **Z.H. v. Hungary** – making a person with multiple disabilities sign off minutes of interrogation without a proper assistance from a person who could communicate the charges to him (a relative and/or a lawyer) constituted a violation of the obligation to inform promptly and in a language the person understands, charges against him/her (Article 5 § 2 of the Convention)
- **Dorđević v. Croatia** – Failure to provide protection to a family member (son) thus subjecting him to inhuman and degrading treatment constituted a violation of the right to family life (Article 8 of the Convention)