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NEWS REPORT

Country:	Former Yugoslav Republic of Macedonia
Title:	Court finds lack of reasonable accommodation to constitute discrimination
Date:	11 June 2015
Expert:	Biljana Kotevska
<u>Context</u>	
Issue at stake:	Court of first instance found lack of reasonable accommodation of infrastructure to constitute discrimination
Ground of discrimination:	Disability
Source:	Case judgment (on file with author)
Field:	Access to goods and services
Applicable law:	Law on Prevention and Protection against Discrimination (Art.8)

Content

Case development: The plaintiff is the grandfather of a child with psychosocial disability claiming that lack of adaptation of infrastructure (in his case – pavements) creates an obstacle to free movement for his nephew, as they live on one of the main streets in the town and the child cannot leave the house by himself as there is no pavement and no aids for movement. He has asked and was promised by the municipality that they will do the necessary adaptations several times, however no adaptations had been made.

The plaintiff first brought the case before the Commission for Protection against Discrimination (CPAD), which did find discrimination on grounds of disability due to lack of reasonable accommodation - form of discrimination under the national law. He also asked the Ombudsperson to react, but even after its reaction (communication from the Ombudsperson to the Municipality in which it points out to the violation) no improvement of the situation followed. So, the plaintiff took the case to court.

The Court of First Instance in Delcevo established discrimination, as did CPAD, and requested that the discriminator removes the obstacles for realising the right of movement – i.e. adjusting the infrastructure in a way that will no longer pose obstacles for the child to leave his house, as requested by the plaintiff. It also awarded damages for suffered fear and psychological pain.¹

Key points of analysis: First case which finds discrimination on grounds of disability and a first one to put the article which states that lack of reasonable accommodation equals discrimination to practice.

¹ The decision is not publicly available, and the amount of awarded damages is not disclosed in the version of the decision available to the expert.

Internet link source:

[MK] Case Judgment P-4, NO.14/2014, Court of First Instance Delcevo [20.03.2015]