



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Iceland
Title:	Ground breaking case concerning the right to free interpretation for deaf people
Date:	24 July 2015
Expert:	Gudrun Gudmundsdottir
<u>Context</u>	
Issue at stake:	Duty of state to provide free interpretation for a deafblind person
Ground of discrimination:	Disability
Source:	National court decision: Judgment of the District Court of Reykjavik of 30 June 2015, Snædís Rán Hjartardóttir v. the Communication Centre for the Deaf and Hard of Hearing and the Icelandic State and, in reserve, the City of Reykjavik, Case No. E-327/2015.
Field:	Employment, social protection and services, access to goods and services, education, housing, etc.)
Applicable law:	Act on the Affairs of People with Disabilities No. 59/1992, the Act on Municipal Social Services No. 40/1991, the Icelandic Constitution and the UN Convention on the Rights of Persons with Disabilities.

Content

Case: Article 76, para. 1 of the Icelandic Constitution sets out that the law shall guarantee for everyone the necessary assistance in case of sickness, invalidity, infirmity by reason of old age, unemployment and similar circumstances. Deafblind people such as the applicant rely on the services of specialised tactile sign interpreters to communicate and are entitled to certain minimum assistance regardless of means, cf. Art 76 and the equality provision of the Constitution (Art. 65). The Communication Centre for The Deaf and Hard of Hearing – a public body under the auspices of the Ministry of Education – is charged with providing sign language interpreting services for deaf people. Interpreting services relating to all public services are to be provided where needed free of charge. However, for the past years the annual allocation of funds from the State budget to the Centre has not been sufficient to cover the need. The Centre's policy is to provide interpreting services indiscriminately on application, free of charge, until funds run out. The result is that those in need of services early in the year get them, but those in the same, or more need, applying later in the year do not.

In this case, the applicant claimed that the Communication Centre for the Deaf and the Hard of Hearing had unlawfully denied free language interpretation from 7 October 2014.

Decision of the Court: The District Court of Reykjavik found that in all likelihood the constitutionally protected minimum services the users were entitled to in 2014 could not be met by the limited funds allocated to the Centre. As national law does not clearly define what constitutes minimum assistance, all applications for interpretation services are accepted until funds run out, leaving those in need later in the year, like the applicant, to pay for the services. This method entails that the distinction between constitutionally protected minimum social assistance, to be provided free of charge and without discrimination, and other services which applicants pay for is blurred in the case of free sign-language interpretation services. Furthermore, this procedure discriminates between applicants on the basis of what time of year they need the services, in violation of the equality provisions of the Constitution and constitutional and administrative law. The court found, taking into account the failure of the State to regulate the minimum rights of people with disabilities to adequate services of sign language interpreters that it should bear the cost of the services provided to the applicant after October 2014. By refusing the applicant free interpretation services, her right to minimum assistance in accordance with Article 76, para. 1 of the Constitution was violated. This right trumps provisions in the State budget governing allocations to free interpretation services. The Court also awarded the applicant 550.000 ISK (approx. €3750) in non-pecuniary damages as the State had failed to fulfil its obligation to establish a system to guarantee her minimum assistance cf. Article 76, para.1, resulting in diminished quality of life and social exclusion.

Key points of analysis: This is an important case establishing that the funding and organisation of sign language interpreting services for deaf people is inadequate and discriminatory, in breach of the right to minimum assistance enshrined in the Constitution and equality provisions of administrative law. The State will have to increase its funding for these services and make legislative changes to define what constitutes minimum rights and adequate services when it comes to the right to sign language interpretation.

Internet link source: Available at the webpage of the District Court of Reykjavik: www.domstolar.is/domaleit/nanar/?ID=E201500327&Domur=2&type=1&Serial=1&Word_S=.