



Case law

Workshop 4 – Disability law outside employment - with a focus on reasonable accommodation

Three children with hearing impairments who rely on Flemish Sign Language to communicate – Flemish Sign Language being their mother tongue – attend mainstream school where they get 5 to 9 hours a week of interpretative assistance. Their parents claimed that this amount of hours is insufficient for their children to follow the required educational courses. As a result, they brought a case against their children's respective schools and the Flemish Community, responsible for education in Flanders. They claimed that the refusal to grant their children more assistance hours amounted to a denial of reasonable accommodation.

The schools remark that the amount of assistance hours offered suffices to make the children succeed. In its defense the Flemish Community argued that the amount of assistance hours that is actually offered consists in itself a reasonable accommodation. They argue that an offer of 70 percent of interpretative assistance would lead to a disproportionate burden and that it belongs to their discretionary competence to decide how to deploy the available budget.

1. In your view, ought the parents' claim to have succeeded? Why?
2. Does the parents' claim imply a disproportionate burden? What criteria are used in your country to decide whether or not an accommodation is reasonable?
3. What possibilities of a court order concerning education exist in your country? Would a claim like this succeed in your jurisdiction? Why?
4. In your country, does it belong to the discretionary competence of the government to decide how the available budget is deployed?
5. If national law in your country does not clearly or explicitly provide for a duty to accommodate outside employment, can the CRPD be used by the courts to "fill the gap" in some way?