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NEWS REPORT

Country:	The Netherlands
Title:	NIHR requires high level of 'reasonable accommodation'
Date:	2 October 2017
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<u>Context</u>	
Issue at stake:	Reasonable accommodation for people with disabilities
Ground of discrimination:	Disability
Source:	National equality body
Field:	Goods and services
Applicable law:	Art. 5b Act on Equal Treatment on the Ground of Disability or Chronic Illness (DDA)

Content

Case: A blind woman wished to shop at a branch of *Kruidvat*, a big chain of drugstores. To be able to do so herself she asked for personnel to take her by the arm and guide her through the shop. This was refused. The personnel instead offered to collect the things on her shopping list and bring it to her. As this arrangement would not enable her to browse and select from the variety of products available, she did not consider this a satisfying form of reasonable accommodation. She suggested she could come to the shop at a quiet time and invited *Kruidvat* to discuss things further. *Kruidvat* did not agree to this suggestion as it considered the request to be guided through the shop as being too cumbersome and a disproportionate burden.

The blind woman took her case to the National Institute of Human Rights, which can hear complaints under the Act on Equal Treatment on Grounds of Disability and Chronic Illness (DDA). In 2016, the scope of this Act was extended to include the field of Goods and Services, in parallel with the ratification of the Convention on the Rights of Persons with Disabilities.

Decision of the Court: The NIHR concluded that *Kruidvat* violated its duty of reasonable accommodation under the DDA. It held that the accommodation offered by *Kruidvat* was not sufficient, in particular because *Kruidvat* had not really investigated whether providing the accommodation in the way the blind woman preferred herself would indeed impose a disproportionate burden. In this respect the NIHR emphasised that the purpose of the obligation to provide reasonable accommodation is to realize the autonomy of disabled persons to the greatest extent possible.¹ The NIHR is a quasi-judicial body which issues non-binding Opinions. Its opinions are followed by the conventional courts in the majority of cases.

Key points of analysis: This opinion shows the NIHR applies the requirement of 'reasonable accommodation' in a very strict way and demands a high level of

¹ NIHR, Opinion No. 2017-104 of 7 September 2017.

accommodation that ties in closely with the specific wishes of the person in need of the accommodation herself. In fact her specific wishes regarding the accommodation to be provided are part of what should be considered sufficiently reasonable. What others from an outside perspective may consider reasonable is not determining. In this way the NIHR gives full recognition to the importance of autonomy as an underlying goal of the CRPD.

Internet link source: NIHR Opinion 2017-104 can be found at:
<https://www.mensenrechten.nl/publicaties/oordelen/2017-104/detail>.