

No discrimination in wheelchair access to municipal cultural buildings

In today's Chamber judgment¹ in the case of [Arnar Helgi Lárusson v. Iceland](#) (application no. 23077/19) the European Court of Human Rights held, by 6 votes to 1, that there had been:

no violation of Article 14 (prohibition of discrimination) read in conjunction with Article 8 (right to respect for private life) of the European Convention on Human Rights.

The case concerned Mr Lárusson's access to municipal buildings which housed cultural and social institutions in Reykjanesbær as a wheelchair user.

The Court found in particular that Reykjanesbær municipality had taken steps to improve access to its facilities gradually and within the limits of its budget. It held that an obligation to take further immediate measures would have amounted to a "disproportionate or undue burden". It was overall satisfied that Mr Lárusson had not been discriminated against in the case.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Arnar Helgi Lárusson, is an Icelandic national who was born in 1976 and lives in Reykjanesbær (Iceland).

In 2002 Mr Lárusson suffered an accident, following which he has had to use a wheelchair for mobility.

Following difficulties accessing municipal arts and cultural centres, in 2015 he, along with a spinal-injury association, took the municipality of Reykjanesbær and a holding company owned by it to court, seeking that access to the buildings be improved for wheelchair users, including, among other things, ramps, lifts and disabled parking spaces. He also sought some 1 million Icelandic krónur (approximately 7,300 euros) in damages. They cited, among other things, Mr Lárusson's constitutional non-discrimination and Convention rights.

The buildings in question were:

Duushús, an 1870s building which had been renovated starting in the 2000s, which housed Reykjanesbær's main arts and cultural centre.

88 Húsið, which dated from the 1960s, where the municipal youth centre was located.

The Reykjanes District Court found in favour of the defendants. It held that there was no violation of the building regulations but that the municipality was under an obligation to gradually improve access to public buildings for wheelchair users in the future, which it had already undertaken to do. It also noted the municipality's executive discretion in this area.

That decision was upheld by the Supreme Court, which confirmed that municipalities have, by law, sole and wide discretion in dealing with issues related to disabilities. The court did not address the Convention or non-discrimination arguments, however.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Complaints, procedure and composition of the Court

The applicant complained of a violation of his rights under Article 14 (prohibition of discrimination) of the Convention in conjunction with Article 8 (right to respect for private life). He submitted that the lack of accessibility to the two buildings had hindered his personal development and right to establish and develop relationships with his community.

The application was lodged with the European Court of Human Rights on 23 April 2019.

Judgment was given by a Chamber of seven judges, composed as follows:

Georges Ravarani (Luxembourg), *President*,
Georgios A. Serghides (Cyprus),
Robert Spano (Iceland),
Darian Pavli (Albania),
Andreas Zünd (Switzerland),
Frédéric Krenç (Belgium),
Mikhail Lobov (Russia),

and also Olga Chernishova, *Deputy Section Registrar*.

Decision of the Court

The Court agreed that the applicant's complaints came within the sphere of "private life", since the lack of access to the buildings in question could affect the applicant's right to personal development and the right to establish and develop relationships with other human beings and the outside world. Therefore, the Court held that Article 14 read together with Article 8 was applicable to the applicant's complaints.

"Discrimination" was defined by the Court as "treating differently, people in relevantly similar situations", without an "objective and reasonable justification" and a "legitimate aim". Any action had to be proportionate to be legitimate. It also referred to the United Nations' Convention on the Rights of Persons with Disabilities, which stated that the denial of access of people with disabilities to facilities and services open to the public should be viewed as discrimination. It affirmed that States have a certain discretion in this area. The State had to facilitate individuals with disabilities provided that that did not involve a disproportionate burden.

Noting the general efforts made to improve access to municipal buildings in Iceland, the Court was not convinced that there had been a discriminatory failure that had prevented the applicant from enjoying the access others had. Reykjanesbær had elected to improve access to sports and educational facilities initially, which the Court found to be a reasonable decision. It noted that there had been improvements made since and there is a commitment to gradual improvement of access for disabled people. It held that obliging Iceland to take further immediate measures would have amounted to a "disproportionate or undue burden".

Overall, the Court adjudged that Reykjanesbær had taken adequate measures to address accessibility to public buildings, within the confines of the available budget and having regard to the cultural heritage protection of the buildings in question, concluding that the applicant had not been discriminated against.

There had been no violation of Article 14 read in conjunction with Article 8 of the Convention.

Separate opinion

Judge Zünd expressed a dissenting opinion. This opinion is annexed to the judgment.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.