

Learning Disabilities and Difficulties in Custody Further Reading

Please see the links below for further reading. All links are in chronological order in relation to when they are mentioned in the Bitesize training.

Video on how people would describe having a learning disability themselves:

<https://youtu.be/9TIs8PyUVKc>

Testimonials of lived experience:

<http://www.intellectualdisability.info/changing-values/articles/i-have-downs-syndrome-but-dont-feel-sorry-for-me>

<https://kids.nationalgeographic.com/pages/article/down-syndrome>

People with learning disabilities in the criminal justice system:

<https://arcuk.org.uk/wp-content/uploads/2016/04/PWLD-in-the-CJS-Guide.pdf>

Convention On The Rights Of Persons With Disabilities (CRPD)

<https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd>

Summary of the ECtHR case:

Z.H. v. Hungary - [28973/11](#)

Judgment 8.11.2012 [Section II]

Article 5

Article 5-2

Information in language understood

Authorities' failure to procure adequate assistance to a person suffering from multiple disabilities and unable to communicate, in order to inform him of the reasons for his arrest: *violation*

Article 3

Degrading treatment

Inhuman treatment

Detention of a person suffering from multiple disabilities and unable to communicate: *violation*

Facts – The applicant is deaf and mute, illiterate and unable to use the official sign language. He also suffers from intellectual disability. He communicates using a peculiar sign-language-like method, only intelligible to his mother. On 10 April 2011 he was arrested on suspicion of mugging and interrogated at the police station in the sole presence of a sign-language interpreter he claimed he was unable to understand. He was detained on remand until 4 July 2011, when a district court ordered his release and placement under house arrest after noting that his detention had to be kept to a minimum in view of his difficulties in communicating. The applicant maintained that the conditions in which he was held were

not fit for someone in his condition and that he had been molested by other inmates. In September 2011 he was placed under partial guardianship. At the date of the Court(s) judgment, the criminal proceedings against him were still pending.

Law – Article 3: The applicant, who suffered from multiple disabilities, had been detained in prison for almost three months. Given that he undoubtedly belonged to a particularly vulnerable group, it was incumbent on the Government to prove that the authorities had taken requisite measures to prevent situations arising that were likely to result in his being subjected to inhuman and degrading treatment. The Court was not convinced that the measures the Government said had been put in place to address his situation on 23 May 2011 – his incarceration with a relative in a cell close to the warden’s office, the involvement of other inmates and the applicant’s mother and the facilitation of his correspondence – had been sufficient to remove the applicant’s treatment from the scope of Article 3. The Government had thus failed to discharge the burden of proof, especially in respect of the initial period of detention before 23 May 2011. Given the inevitable feelings of isolation and helplessness that flowed from his disabilities, and his lack of comprehension of his situation and of the prison order, the applicant must have suffered anguish and a sense of inferiority, especially as a result of being cut off from the only person (his mother) with whom he could effectively communicate. Moreover, although the applicant’s allegations of molestation by other inmates had not been supported by evidence, the Court noted that a person in his position would have faced significant difficulties in bringing any such incidents, had they occurred, to the wardens’ attention, which could have resulted in fear and the feeling of being exposed to abuse. The district court had eventually released the applicant for quite similar considerations. Despite the authorities laudable but belated efforts to address his situation, the applicant’s incarceration without requisite measures being taken within a reasonable time had thus resulted in a situation amounting to inhuman and degrading treatment.

Conclusion: violation (unanimously).

Article 5 § 2: Given the applicant’s multiple disabilities, the Court was not persuaded that he could be considered to have obtained the information required to enable him to challenge his detention. The Court further found it regrettable that the authorities had not taken any truly “reasonable steps” – a notion quite akin to that of “reasonable accommodation” in Articles 2, 13 and 14 of the United Nations [Convention on the Rights of Persons with Disabilities](#) – to address his condition, in particular by procuring him assistance by a lawyer or another suitable person. For the Court, the police officers interrogating the applicant must have realised that no meaningful communication had been possible and should have sought assistance from the applicant’s mother (who could have at least informed them of the magnitude of his communication problems) rather than simply making the applicant sign the interrogation record.

Conclusion: violation (unanimously).

Article 41: EUR 16,000 in respect of non-pecuniary damage.

Makaton:

https://makaton.org/TMC/Member_Home.aspx?WebsiteKey=2d2ed83b-15c1-4b7f-b237-8ca41598fd50

Dyslexia friendly style guide:

<https://www.bdadyslexia.org.uk/advice/employers/creating-a-dyslexia-friendly-workplace/dyslexia-friendly-style-guide>

MenCap's guide to communicating with people with learning disabilities:

https://www.mencap.org.uk/sites/default/files/2016-12/Communicating%20with%20people_updated%20%281%29.pdf

Below are some interesting links for any further research you may wish you undertake.

The Learning Disability Lived Experience Board on the new Human Rights Bill for Scotland:

<https://www.sclد.org.uk/wp-content/uploads/2022/06/Human-Rights-Lived-Experience-Board-Report-1.pdf>

ARC England:

<https://arcengland.org.uk>

What is a learning disability?

<https://www.mencap.org.uk/learning-disability-explained/what-learning-disability>

NHS on Learning Disabilities:

<https://www.nhs.uk/conditions/learning-disabilities/>

Publication from Foundation for People With Learning Disabilities:

<https://www.learningdisabilities.org.uk/learning-disabilities/publications>

Some guidance on SpLDs:

<https://www.dyslexia.uk.net/specific-learning-difficulties/>

<https://academic.admin.ox.ac.uk/files/specificlearningdifficultiesspldpdf>