

César Alan Rodríguez

(Tax and Administrative Court - Chamber N. 1 of Buenos Aires; 2016)

Case at a glance

Full citation

[Juzgado en lo Contencioso Administrativo y Tributario N. 1 \[Tax and Administrative Court – Chamber N. 1 of Buenos Aires\], 24/10/2016, Rodríguez, César Alan / acción de amparo \(Arg.\)](#)

Forum

Tax and Administrative Court N. 1 of Buenos Aires, Argentina

Date of decision

22 January 2016

Summary of decision

In this decision, the Court found that the right to education of a disabled child had been violated when the educational institution did not award an official certificate of completion for his secondary education, even after the student had met all the requirements of his personalised education project (proyecto pedagógico individual or PPI) because his PPI did not comply with the minimum requirements under local regulations. The Court concluded that people with disabilities have the right to an inclusive education on an equal basis with others, and this includes the right to have their capabilities and accomplishments certified under equal conditions. ‘Equal conditions’ does not necessarily mean identical requirements but rather, making reasonable adjustments to ensure that individuals are treated as equals. Namely, the Court explained that the plaintiff, having met the specific requirements of his PPI and having attended and passed 5 years of courses at the institution, had the same right as his classmates that had met the requirements imposed on them to receive a certificate.

Significance to the right to education

This decision recognises that the right to equal education does not necessarily mean an education provided under identical conditions, but an inclusive education which provides for reasonable accommodation so that students can be treated equally, and therefore achieve equal opportunity.

Issues & keywords

Persons with disabilities; Secondary education; Graduation Certificate; Certificate of completion of studies; Individual study project; Personalised education

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Context

César Alan Rodríguez, a child with Down's syndrome who wanted to obtain his official certificate of completion of secondary education in order to continue with his education, asked the school, and later the ministry of education to recognise and deliver his certificate of completion. The school and the ministry of education refused, based on local rules that permitted granting said certificate of completion only to those who met certain minimum requirements.

As a result of this, Alan began [a petition on Change.org](#) directed to the national minister of education of Argentina and the minister of education of the city of Buenos Aires to deliver to him his certificate of completion. Alan managed to gather more than 160,000 signatures and obtained the support of the Civil Association for Equality and Justice (Asociación Civil por la Igualdad y la Justicia), Group Article 24 for Inclusive Education (Grupo Artículo 24 por la Educación Inclusiva), the National Institute Against Discrimination, Xenophobia and Racism (Instituto Nacional contra la Discriminación la Xenofobia y el Racismo or INADI), the Association for Civil Rights (Asociación por los Derechos Civiles or ADC), the Network for the Rights of People with Disabilities (Red por los Derechos de las Personas con Discapacidad or REDI) and experts in education who presented amicus curae in his favour.

Facts

Cesar Alan Rodríguez filed an action against the government of the city of Buenos Aires and the school he attended. The plaintiff, who has Down's syndrome, graduated under a personalised educational project (PPI), passed all classes within his PPI and completed five years of classes at the school. The PPI allows students with disabilities to attend school with an educational project designed according to their individual needs and particularities. Under a PPI, the evaluations and decisions on whether to promote a student to the next level are based on the unique learning process and experiences of that student. However, the determination about the completion of the studies is based on the general requirements that are imposed on the entire student body. When the plaintiff terminated his PPI and completed the studies required thereunder, the educational institution refused to grant him his official certificate of completion of secondary education because he had not complied with the minimum contents corresponding to the year in which he was enrolled, which was required under Disposition 25/GDEGP/2012, a local regulation.

Article 24(2) of the Convention on the Rights of Persons with Disabilities

In realising this right [of persons with disabilities to education] States Parties shall ensure that:

- (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
- (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- (c) Reasonable accommodation of the individual's requirements is provided;
- (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- (e) Effective individualised support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

Issue

Whether the local regulation, requiring compliance with certain minimum requirements in order to award a school diploma, even to students who had completed a PPI, was discriminatory against persons with disabilities and violated their right to education.

Decision

The Court concluded that the State has an obligation to provide an inclusive education system at all levels and to ensure that persons with disabilities have access to inclusive primary and secondary education, on an equal basis with others, with reasonable accommodation depending on individual needs. This right was violated when the plaintiff was not awarded the title certifying he had completed his studies because, while his learning and grade advancement were assessed on the basis of his individual plan within the PPI, the accreditation of his studies was assessed on the basis of the minimum requirements applied to all students, who did not have a disability. This is discriminatory because the student is not being evaluated against the objectives that were presented to him, whereas his classmates are being evaluated against the objectives presented to them.

The Court pointed out that ‘on an equal basis’ with others does not mean identical conditions of evaluation, but instead, ‘conditions of equality’ requires that students with and without disabilities be evaluated according to the parameters imposed on them.

Impact

The Court ordered that the applicant be granted the official title of completion of his secondary studies and declared the unconstitutionality of the local regulation that required compliance with the minimum contents of the general curriculum as a condition for granting the degree.

Relevant Legal Provisions

National

- Articles 14 and 75 and subsections 22 and 23 of the National Constitution of Argentina
- Law 27,044 of Argentina

International

- Articles 5 and 24 of the Convention on the Rights of Persons with Disabilities
- Articles 1 and 3 of the Convention on the Elimination of Discrimination against Persons with Disabilities
- Article 13 of the International Convention on Economic, Social and Cultural Rights
- Article 28 of the Convention on the Rights of the Child
- Article XII of the American Declaration on the Rights and Duties of Man
- Article 26 of the Universal Declaration of Human Rights

Cases

- Argentina Supreme Court Judgment: 286: 325
- Argentina Supreme Court Judgment: 288: 325

Commentary

This decision is consistent with international principles on the right to education. In particular, the Court relied on Article 24 of the Convention on the Rights of Persons with Disabilities, which requires States Parties to ensure that persons with disabilities have access to education without discrimination, on an equal basis with others. The Court also referred to the Committee on the Convention on the Rights of Persons with Disabilities, which specified that States Parties should ensure that persons with disabilities are not excluded from education and that States Parties must eliminate structural disadvantages in order to achieve effective participation and equity of all persons with disabilities. The Court also recognised that the right to education includes the right to graduate and recognised the importance of obtaining a degree in continuing education and accessing employment opportunities.

Additional Resources

[*Asociación Civil por la Igualdad y la Justicia, Un Fallo Histórico Para el Derecho a la Educación de las Personas con Discapacidad* \(Oct. 25, 2016\)](#)

[*Right to Education Project's page on the right to education of persons with disabilities*](#)

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