



Strategic litigation

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Interfederal Equal Opportunity Center

- 1993
- 95 FTE
- All discrimination grounds excepted gender and language
- 33.2 CRPD
- Interfederal → cooperation agreement





Litigation is an exception

- Alternative dispute resolution body → priority to conciliation, mediation
- 4660 reports → 1600 cases → 14 litigation cases





(Strategic) litigation approach

- ≠ between discrimination, hate speech, hate crime
- Hate crime (violence, murder, ...) → go to court (no mediation step) → seriousness → complaint to justice
- Hate speech → internet → notice and take down (+ training ...) → going to court is a real exception (public figure)





Strategic litigation approach in discrimination cases

- First step : trying an alternative dispute resolution
- Enough elements/evidences
- Elements for an added value:
 - Precedent → no jurisprudence
 - Clarification → concept no clear
 - CRPD → direct application
 - Procedural interest (evidences, ...)





Some examples

- Feryn
- Disability case in public employment → less productive employee
- « property » → housing cases
- Religion and belief → neutrality for private companies ?
- Shifting burden of proof → elements but no evidences (situation tests)
- Discrimination by association (disability-coleman)

