



HANDBOOK

STRATEGIC LITIGATION

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Forward

The handbook provides guidance on how to litigate strategically to further advance legal claims before national and supranational judicial and quasi-judicial bodies, so as to achieve important structural changes, at the legal as well as public policy levels, in direct connection with the protection and promotion of the rights of persons with disabilities. *Strategic Litigation Handbook* was elaborated within the framework of the project *Enhance the knowledge and skills of legal professionals and other stakeholders in using strategic litigation to enforce the rights of persons with disabilities (LITIS)* implemented with the financial support of the Citizens, Equality, Rights and Values Programme (CERV) by *Association Pro Refugiu (Romania), University of Bucharest (Romania), University of Salamanca (Spain) and Italian Coalition for Civil Liberties and Rights*.

Legislation, definitions

The United Nations Convention on the Rights of Persons with Disabilities¹ (CRPD) is a key international treaty, which exists to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. The Convention applies established human rights principles from the UN Declaration on Human Rights to the situation of persons with disabilities. It covers civil and political rights to equal treatment and freedom from discrimination, and social and economic rights in areas like education, health care, employment and transport. States parties have accepted the legal obligations contained in the CRPD. These obligations include ensuring there are national laws to prevent discrimination, eliminating barriers to accessibility, and working to promote the capabilities and contributions of people with disabilities.

The CRPD established a new UN treaty body called the Committee on the Rights of Persons with Disabilities. The Committee evaluates reports submitted by States party to the Convention (and reports submitted by non-governmental organisations), as well as serving a quasi-judicial role considering individual complaints.

Several states parties to the CRPD have also signed the Optional Protocol to the CRPD. The Optional Protocol to the CRPD enables the UN Committee to receive complaints about rights violations from individuals or groups of individuals who believe that a state party has violated rights under the Convention. To be admissible, such complaints (referred to as communications) must not be anonymous, all available domestic remedies must have been exhausted and the alleged violations must have occurred after the Optional Protocol came into force in the relevant country.

The UN Committee considers all admissible complaints and may make comments and recommendations to both the relevant country and the petitioner. In cases of grave or systemic violations of CRPD rights, the Optional Protocol sets out an inquiry procedure. An inquiry may include a visit to the relevant country if that country consents. The UN Committee concludes its inquiry by transmitting its findings and recommendations to the relevant country, which must respond within six months.

¹ The United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

In developing a convention that would be meaningful across jurisdictions, obligations were included that would promote the rights of persons with disabilities in different national contexts and the recognition of the importance of international cooperation. The development of a convention also had to respond to the types of discrimination faced by persons with disabilities, which include both individual and systemic discrimination.

The CRPD seeks to address the complexity of the inequalities individuals face in society by noting in the preamble that many persons with disabilities face "multiple or aggravated forms of discrimination" on the basis of sex, age, ethnicity, religion or other grounds. Articles 6 and 7 place special emphasis on the need for states parties to recognize the rights of women and children with disabilities and for states parties to take the "necessary" or "appropriate" measures to ensure they enjoy all human rights and fundamental freedoms. The phrase "multiple or aggravated" connotes the fact that impairments/disabilities often lead to structural discrimination, which in turn perpetuates a cycle of exclusion, disabling these persons further and sustaining this cycle rather than breaking it.

The CRPD does not define "persons with disabilities", but according to Article 1 (which sets out the purpose of the treaty): "Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others". This wording recognizes the diverse types of disabilities, or "impairments," that a person may have. Perhaps most importantly, it emphasizes that a person with a disability is only limited in their ability to participate in society as a result of their interaction with barriers that society permits to exist, which may be physical obstacles, policies, legislation, or discriminatory behaviour and prejudicial attitudes. The absence of a formal definition reflects the fact that there are different conceptualizations of disability, and recognizes, as noted in the preamble, that "disability" is an "evolving concept." The Convention requires states parties to identify and eliminate these obstacles and barriers. This language is also reflective of the rights-based approach, which views persons with disabilities as rights holders and active members of society.

Since the CRPD is intended to ensure that persons with disabilities enjoy access to human rights free from discrimination, the importance of equality is stressed throughout. Legal equality is a fundamental right that ensures individuals are empowered to access justice and challenge the violation of any of their rights. The Convention states that "all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law" (Article 5). States parties must also ensure that persons with disabilities have access to justice on an equal basis with others (Article 13), including by ensuring that appropriate accommodations are made to facilitate their participation in all legal proceedings (including as a trial witness, complainant or defendant). Article 12 uses similar language to Article 5 but adds that persons with disabilities are entitled to equal recognition before the law. This provision also includes an important development not seen in previous UN instruments. It focuses on ensuring that persons with disabilities can exercise their own legal capacity and that the state provides support as necessary to allow them to do so. The intention here is that persons with disabilities are to be supported in making their own decisions concerning their personal, financial or legal affairs and that their best interests are always to be considered by those assisting them.

By ratifying the CRPD in December 2010, the European Union associated itself with efforts agreed at international level to guarantee the fundamental rights of people with disabilities. By 2018, all EU Member States had also ratified the convention, committing, alongside the EU, to complying with the obligations under the convention and to setting up the mechanisms for its implementation and coordination. The EU and its Member States use the CRPD definition of disability as a common reference at EU level.

Over time, the EU has paid increasingly close attention to the situation of people with disabilities. The question of what would be the right legal basis for introducing a genuine EU disability policy has also become increasingly important. The rights of persons with disabilities have been enshrined in the EU Treaties since 1997. Article 19 of the Treaty on the Functioning of the European Union² (ex-Article 13 of the Treaty establishing the European Community) stipulates that in defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Charter of Fundamental Rights of the European Union³ prohibits discrimination on the basis of disability (Article 21) and recognises the right of persons with disabilities to independence, social and occupational integration and participation in the life of the community (Article 26).

Since the EU's ratification of the CRPD, the Court of Justice of the European Union has changed its approach in order to bring it into line with the Court's understanding of Article 1 of the CRPD. It has said that "disability" must be understood as "long-term physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers"⁴.

The European Convention of Human Rights does not specify any particular rights for persons with disabilities, but emphasizes in Article 1 that contracting states must secure to everyone within their jurisdiction the rights and freedoms defined in this Convention. Promoting and protecting human rights of all persons and upholding democracy and the respect of the rule of law is the core of Council of Europe work. The protection of rights, safeguarded and guaranteed under the European Convention on Human Rights, applies to all, including persons with disabilities. The Council of Europe Strategy on the Rights of Persons with Disabilities 2017-2023⁵ was drafted in 2016 by Council of Europe Member States, in cooperation with civil society and other stakeholders and it was adopted on 30 November 2016. The Strategy complements the UN Convention on the Rights of Persons with Disabilities in calling on States to implement actions in key areas covered in the Convention. These include equality and non-discrimination, awareness-raising, accessibility, equal recognition before the law, and freedom from exploitation, violence and abuse.

In March 2021, the European Commission adopted the Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030⁶. The Strategy builds on the results of the previous European Disability Strategy 2010-2020, and it gives due consideration to both the UN Convention on the Rights of Persons with Disabilities (which the EU ratified) and the United Nations 2030 Agenda for Sustainable Development. It contains a number of priorities, flagship initiatives, and opportunities for Member States to work together to improve the lives of disabled people across the EU.

Discrimination is one of the most common human rights violations and is prohibited under human rights law. The principles of equality in rights and dignity, and freedom from discrimination were outlined in the **first two articles of the Universal Declaration on Human**

²Treaty on the Functioning of the European Union, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>

³ The Charter of Fundamental Rights of the European Union <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A12012P%2FTXT>

⁴ Case C-312/11, Commission v Italy 4 July 2013 <https://curia.europa.eu/juris/liste.jsf?num=C-312/11&language=EN>

⁵ Council of Europe Strategy on the Rights of Persons with Disabilities 2017-2023 <https://www.coe.int/en/web/disability/strategy-2017-2023>

⁶ Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030 <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8376&furtherPubs=yes>

Rights: *all human beings are born free and equal in dignity and rights (Article 1), everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind (Article 2).* Protection against discrimination in Europe can be found both within European Union law and within the Council of Europe treaty system. **Article 14** of the **European Convention on Human Rights** states that the rights and freedoms set out in the Convention should be secured “*without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status*”. **Protocol 12** to the Convention expanded the scope of the prohibition on discrimination, to cover all rights guaranteed at national level, regardless of whether or not they are rights within the Convention. For countries in the European Union, the **Charter of Fundamental Rights** prohibits discrimination (**Article 21**) and is legally binding for all EU member states. In addition to the Charter, two EU Directives – **the Employment Equality Directive**⁷ and **the Racial Equality Directive**⁸ - prohibit discrimination in certain contexts, such as employment. The Employment Equality Directive (Directive 2000/78)¹ represents the cornerstone of the disability non-discrimination legislation of the European Union (EU). Since the adoption of the Directive and the ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) by the Member States and the EU, a substantial body of case law has developed within the Court of Justice of the European Union (CJEU).

The concept of multiple and intersectional discrimination is slowly being recognized as a social barrier. Intersectional, multiple discrimination is a specific phenomenon in the theory of human rights, which is an approach to an individual’s identity that recognizes that different identity categories can intersect and co-exist in the same individual in a way which creates a qualitatively different experience when compared to any of the individual characteristics involved.

The term “multiple discrimination” is used as an overarching, neutral notion for all instances of discrimination on several discriminatory grounds. This phenomenon can manifest itself in two ways. First, there is “additive discrimination”, where discrimination takes place on the basis of several grounds operating separately. Second, there is “intersectional discrimination”, where two or more grounds interact in such a way that they are inextricable. The awareness of multiple discrimination is relatively new and this is one reason why an appropriate response has not yet been fully developed in all member states and the EU law.

The impact of strategic litigation

Even though many countries have ratified the CRPD, the rights of people with disabilities get violated daily all over the world. In almost every country there are national laws and policies which should assure the same rights for these persons.

Persons with disabilities still face considerable barriers in access to healthcare, education, employment, recreation activities, as well as in participation in political life. They have the right to protection from any form of discrimination and violence, equal opportunities in and access to justice, education, culture, housing, recreation, leisure, sport and tourism, and equal access to all health services. Combating all forms of discrimination against persons with disabilities is at the heart of the CRPD.

⁷ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>

⁸ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0043>

Legal professionals and other human rights defenders working in organisations and institutions need to deepen their knowledge about strategic litigation and its benefits in the fight against rights violations and in creating a long-term impact that goes beyond the case itself; they need to develop their capacity to bring cases to national, regional and international forums. Strategic litigation can be conducted in the judicial forum, whether local or national courts, or before international judicial and quasi-judicial bodies.

By definition, **strategic litigation** is a judicial procedure initiated in an individual case with the purpose of triggering broader changes in law, policies or to raise public awareness, as well as to seek justice for the person(s) directly involved in that case. Individuals involved in strategic litigation have been victims of human rights abuses. It is a form of legal mobilization, using the law and the justice system for societal changes that better protect and promote human rights.

Strategic litigation can address multiple issues concerning violations of the rights of persons with disabilities and can help that their rights are mainstreamed at national and European level. People with disabilities do not only face discrimination on the basis of their impairments. The United Nations Convention on the Rights of Persons with Disabilities also recognizes "multiple or aggravated forms of discrimination based on race, colour, sex, language, religion or political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status".

The potential benefits of initiating strategic litigation include: creating progressive jurisprudence by setting innovative legal precedents, ensuring that national laws are correctly interpreted and enforced, triggering reforms in national laws, policies and practices against human rights standards, enabling individuals to seek remedies for the harm suffered. Court judgments can flesh out the scope of obligations that are under-developed at national and international levels. Strategic litigation can set the baseline for negotiations and advocacy around legal, policy and social change, framing the debate from a human rights perspective. Judicial outcomes can become crucial advocacy tools, allowing to put pressure on political players to undertake reforms.

Strategic litigation is a tool that helps to promote social transformations and strengthens human rights protection; it consists in achieving broad changes that extend beyond a particular case. Its premises and characteristics have made strategic litigation an important means to promote the protection of human rights, including the rights of people in vulnerable situations such as the persons with disabilities. Strategic human rights litigation on behalf of people with disabilities, if well planned in advance and persistently implemented can result in significant legal and social change. Strategic litigation can help victims of human rights violations feel a sense of power and control over their life. It magnifies and lends credibility to their voices as well as providing them with individual remedies. A positive judgment can empower other victims to claim their rights.

Strategic litigation can bring a cause or issue into the limelight. This attention can raise general awareness and foster public discussion and debate. Given the open and public nature of most courtroom proceedings in many jurisdictions, it can also provide an excellent opportunity for media coverage surrounding all parties and organisations involved to gather momentum behind the cause. Changing public attitudes can be instrumental to any victories achieved being felt on the ground.

Strategic litigation is much more than a simple legal case – it is an entire strategy and involves assessing the characteristics of the client, the legal issues, media interest, partnerships with other groups, judicial history on this and similar issues, costs, timing, etc.

Strategic litigation design and planning

Strategic litigation and Access to Justice

Strategic litigation can be conceived as a legal figure that reveals an intention on the part of those who promote its implementation and its development to obtain a certain claim in favor of certain collectives located at a level of disadvantage for the sake of bringing about a change in the political, social or economic status quo. In this sense, it can be stated that the general purpose is giving voice and visibility to the interests of subordinate groups that are excluded from participation in public life by the prevailing social conditions and that have traditionally remained outside the legal system, allowing their inclusion in the discussion of collective social problems⁹.

Therefore, the aim is to give effect to the right of equal access to justice, understood as a “hinge right”, in that it makes it possible to give effect to other rights, whether political, economic, social or cultural. It opens the way to claim for non-compliance, even before the States themselves, thus guaranteeing equality, respect for diversity and for the principle of non-discrimination, fully in line with what is stated in the Sustainable Development Goal (SDG) number 16 of the United Nations 2030 Agenda. The right of access to justice, which strategic litigation aims to guarantee, finds its most important normative formulation in the adoption of the Universal Declaration of Human Rights, Article 8, which states that “everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law”. Along the same lines is Article 14 of the International Covenant on Civil and Political Rights, signed in New York on December 16, 1966, and in a more specific territorial scope, Article 6 of the European Convention on Human Rights of November 4, 1950, which recognizes the right of every person “to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”, which shall decide disputes concerning his rights and obligations in a suit at law or concerning the merits of any criminal charge against him; or in the Charter of Fundamental Rights of the European Union, legally binding after the entry into force of the Lisbon Treaty in 2009, that require in turn not only that the States endorse these regulations, ratifying them, but also that they adopt positive measures to facilitate the enjoyment of the rights contained therein and the exercise of the appropriate actions in the event of possible infringements.

Moreover, and bearing in mind that one of the paradigmatic cases in which resource to the figure of strategic litigation is possible is that in which human rights are violated, it should be noted that, despite the legal recognition of these rights in multiple regulatory texts such as those just mentioned, it is necessary to guarantee the existence of an instrument through which they can be protected and guaranteed in situations in which they are violated.

Thus the special relevance of the right of access to justice, as a complex and multidimensional right closely linked to the principles of the rule of law and the legal empowerment of individuals. This is not only because it implies effective access by all persons to guarantee their rights and legitimate interests, but also because it can be conceived as their capacity to resolve and manage conflicts. In this sense, access to justice is not only a right in itself, but also a mechanism that enables the legal empowerment of individuals insofar as, through its exercise, they are fully

⁹ Of this opinion is Ucin, M. C. (2017). Litigio de Interés Público. *Eunomía. Revista en Cultura de la Legalidad*, no. 12, p. 248.

empowered to assert their rights and be redressed for violations of the latter through various instruments aimed at resolving conflicts¹⁰.

Choice of the body before which to file the strategic litigation

Currently, there are different international and regional bodies, apart from the national ones, aimed at protecting and guaranteeing human rights. It is especially relevant to select one of them to provide the litigation with greater strength and extensive character. To illustrate, there are organizations such as the United Nations, the Council of Europe, the European Union, the Organization of American States or the African Union, all of them international or regional organizations that promote the defense of human rights.

At the level of the United Nations, the Committee on the Rights of Persons with Disabilities and the Human Rights Committee, as well as the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women, are particularly noteworthy in relation to the subject of this handbook. These are treaty bodies, since in the framework of the bodies originating in the United Nations Charter, reference can be made to the Human Rights Council, the intergovernmental body within the United Nations system composed of 47 States responsible for the promotion and protection of all human rights throughout the world.

Within the Council of Europe, special mention should be made of the European Court of Human Rights, created by virtue of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, which will hear (i) individual applications brought by any natural person, non-governmental organization or group of individuals who consider themselves to be victims of a violation by one of the High Contracting Parties of the rights recognized in the Convention or its Protocols, provided that all domestic remedies have been exhausted, as well as (ii) of the violations that any State Party submits to the Court because that are imputed to another Contracting Party.

Likewise, within the framework of the Organization of American States, the American Convention on Human Rights of 1969, also known as the Pact of San José, creates the Inter-American Human Rights System, consecrating rights and freedoms that must be respected by the States Parties. On the one hand, it establishes the protection and guarantee mechanism of the Commission, which is responsible for promoting the observance and defense of human rights for those individuals that claim to have had their human rights violated. On the other hand, it creates the Court: a regional court for the protection of human rights with autonomy to apply and interpret the Convention, developing a contentious function by virtue of which it resolves the matters raised and supervises the judgments, and may also adopt precautionary measures.

Within the framework of the African Union, the Protocol to the African Charter on Human and Peoples' Rights established the African Court with the same name and headquarters in Arusha (Tanzania), which will hear cases submitted to it by: (1) the African Commission on Human Rights; (2) States Parties; and (3) relevant non-governmental organizations that have been granted observer status before the Commission and individuals, as long as the State against which the application is brought has recognized the jurisdiction of the Court to accept cases from individuals and NGOs.

¹⁰ In this sense, see Añón Roig, M. J. (2018). El derecho de acceso como garantía de justicia: perspectivas y alcance. In: C. García-Pascual (Coord.), *Acceso a la justicia y garantía de los derechos en tiempos de crisis: de los procedimientos tradicionales a los mecanismos alternativos* (pp. 27-29). Tirant lo Blanch.

Therefore, regarding strategic litigation before the aforementioned bodies, it should be noted that there is a certain connection and feedback between them through the citation of jurisprudence and recommendations. For example, the United Nations Human Rights Committee cited in its resolutions cases brought before the Inter-American Court, and the latter in turn cited rulings issued by United Nations Committees such as the Human Rights Committee, the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights¹¹.

On this issue, it should be noted that strategic litigation currently represents a figure more characteristic of the countries of the global South or developing countries such as Latin America, partly due to the lack of correlation between the recognition of rights made by the various constitutional texts and the actual enjoyment of such rights caused by the absence of an effective implementation of public policies by the States¹².

Strategic Litigation objectives

The very existence of strategic litigation relates to the fact that certain groups, due to various conditions, may encounter barriers of different kinds that deny, limit or restrict their access to justice, with the existence of large sectors of the population that have no effective possibility of accessing justice for the defense of their rights, or that can only do so after overcoming enormous difficulties. These groups could be categorized in various ways, but we have opted for the one set out in the so-called Brasilia Rules on access to justice for certain persons in vulnerable conditions, including the phenomenon of multiple discrimination and intersectional discrimination, already included in the European Strategy for Gender Equality (2020-2025), in those cases in which two or more of these conditions concur in the same person, recognizing the possibility of prioritizing actions aimed at facilitating access to justice in these cases. Among these circumstances are, without being considered a closed list: age, sexual orientation, gender identity, religious beliefs and/or practices, or the absence of these, belonging to indigenous communities or minorities, victimization, migration and internal displacement, poverty, gender, deprivation of liberty and, of course, disability.

From this conception of access to justice and strategic litigation as a mechanism of legal empowerment of people in vulnerable conditions, the following could be highlighted as objectives of the latter: (1) to achieve effectiveness through the claim that is carried out before the different institutions, thus introducing the object of litigation in the framework of the political agenda and public debate¹³; (2) to promote human rights through a revision of a public law practice that violates the rights that are being defended in the specific case, by modifying practices related to the functioning of structures and institutions, or even by selecting and prosecuting “witness” cases in order to bring about a change in the law in force¹⁴; (3) to guarantee and enforce the rights recognized in the legal system; (4) to denounce public policies that violate international human rights standards; (5) to achieve judicial resolutions that, beyond compensating the parties affected by the conflict, make it possible to address legal reforms and implement or modify public policies with the objective of benefiting a specific group of people with similar interests; (6) to provoke changes in society itself, taking advantage of the social projection that the judicialization of

¹¹ Along this line of thought, see Duque, C. (2014). ¿Por qué un litigio estratégico en Derechos Humanos? *Revista Aportes Andinos*, no. 35, p. 19.

¹² Ucin, M. C. (2017). Litigio de Interés Público..., *op. cit.*, pp. 249-251.

¹³ Benjumea Rúa, A. M. & Vargas Villabona, E. (2015). Litigio estratégico. In: *Corporación Humanas Colombia, Por una justicia para las mujeres: Litigio estratégico como apuesta feminista* (p. 16). Ediciones Ántropos.

¹⁴ Ucin, M. C. (2017). Litigio de Interés Público..., *op. cit.*, p. 248.

litigation might have¹⁵; (7) to enable the development of other complaint mechanisms by social organizations, contributing to the strengthening of these actors and their capacity for action, such as dissemination, prevention campaigns or protest; (8) to promote the construction of a democratic rule of law; (9) to construct spaces for open dialogue between State and civil society; (10) to empower various vulnerable or underrepresented groups or collectives that may either intervene in the implementation of the strategy or be the target groups to which it is addressed, which also makes it possible to vindicate minorities and make the actions of these groups more visible; (11) to eliminate those barriers and obstacles that hinder the exercise of the right to justice, giving visibility to the limitations in the exercise of this right, as well as to those existing procedural deficiencies, the affectations of each collective and the enforceability of their rights and interests; (12) to promote the use of alternative means of conflict resolution; and (13) to instruct judges in human rights matters¹⁶.

As mentioned above, strategic litigation reveals an intention on the part of those who promote its implementation and development to obtain a certain claim in favor of certain groups located at a level of disadvantage. Therefore, it can be approached in different ways: either through a review of a public law practice that violates the rights that in the specific case are defended, or by changing practices related to the functioning of structures and institutions. However, the most common modality is usually through the selection and judicialization of “witness” cases with which it is sought to bring about a change in the current law¹⁷. Which is why it is particularly interesting to analyze the criteria that could be used to select such cases, with the intention to achieve a resolution that, beyond repairing the subjects affected by the conflict, allows addressing legal reforms and implementing or modifying public policies with the aim of benefiting a whole certain group with similar interests. In this sense, the objective is not only to provoke changes in the legal framework, but also in society itself, taking advantage of the social projection that comes from the judicialization; given the greater scope that the final decision will have beyond the specific situation of one particular case¹⁸.

Criteria for the selection of cases

Before selecting such cases, it will be necessary to clearly identify and determine the issue at hand, assessing whether it is susceptible to judicialization. That is, whether it is possible to reach a solution to the social problem by means of a judicial process, since giving too much importance to the power of litigation can be dangerous or counterproductive for social change.

This is justified because, sometimes, although the situation of discrimination may seem clear, it might not be possible to defend its existence from a legal point of view, according to the context. That would lead to an immediate dismissal of the issue that would reinforce the existing situation of discrimination by having obtained a ruling contrary to what was requested in the strategic litigation. Taking this difficult decision may generate conflict with certain collectives or groups that legitimately consider that their problem should be a priority and are unable to understand that the solution cannot be obtained through strategic litigation; which should not be used as a first option, but as an exceptional resource in particularly relevant cases that require a

¹⁵ Duque, C. (2014). ¿Por qué un litigio estratégico..., *op. cit.*, pp. 9-13.

¹⁶ Benjumea Rúa, A. M. & Vargas Villabona, E. (2015). Litigio estratégico..., *op. cit.*, pp. 16-18.

¹⁷ Ucin, M. C. (2017). Litigio de Interés Público..., *op. cit.*, p. 248.

¹⁸ Duque, C. (2014). ¿Por qué un litigio estratégico..., *op. cit.*, pp. 9-10.

combination of legal approach and social mobilization. Hence, contact between lawyers and activists is fundamental¹⁹.

This fact would connect with the need to intelligently delimit, not only the litigation to be addressed and the selection of those “witness” cases, which criteria will be addressed below, but also the parties to them, without forgetting that according to the Outcome Report “Strategic Litigation in Gender-Based Violence: Experiences from Latin America”, of the Office of the United Nations High Commissioner for Human Rights²⁰, strategic litigation not only has an individual impact on the persons affected, the victim or the party injured through the recognition of the facts and the reparation, but also a social impact through structural changes and a modification of narratives directed to avoid the repetition of facts in the future.

Given that the litigation narrative influences the strength of a broader social movement or cause, it is important to consider the power of narratives and personal stories to attract public support without underestimating the organizations or groups that are most representative and that tend to have a greater capacity to make themselves visible in the public debate, attending to media and contributing with messages through social networks to produce greater social mobilization, essential for strategic litigation. The choice of these actors as plaintiffs will require a prior study to ensure that they have legal standing to appear in court and that they are aware that the objective of strategic litigation is structural and goes beyond their own individual interests²¹.

After analyzing these preliminary questions, considering the above-mentioned objectives and the very nature of strategic litigation, it is appropriate to determine different criterion to help identify the most suitable situations or contexts in which to resort to strategic litigation.

In order to do so, there should be taken into account factors such as the complexity of the case; the nature and seriousness of the criminal act, in the case of a criminal offense; the facts under investigation; the profile and number of victims and offenders and their degree of participation; the procedural stage of the case being prosecuted; the profile of the applicants, depending on whether it is the victim or an organization; as well as the confidential information required by the case insofar as certain protected data may not be disseminated²².

Thus, without seeking to be exhaustive, we can establish the following criteria: (1) from an objective dimension and assuming that it is a criminal case, that we are dealing with: a) serious crimes; b) paradigmatic situations that reveal judicial deficiencies; c) cases involving a large group or number of affected persons; or d) massive human rights violations; (2) from a subjective dimension, that they are persons or groups located in a context of special vulnerability, such as women, minors, ethnic minorities, sexual orientation, gender identity, disability or any of the circumstances mentioned above, taking as a reference those indicated in the Brasilia Rules; (3) from a procedural point of view: a) that they are cases in which there is sufficient data and information to describe the essential facts of the case; b) that there is sufficient evidentiary material available; or (c) that they are cases that are at the investigation or pre-trial stage; and finally (4), with a more complementary purpose: (a) that the person affected, the victim of the crime or the person harmed firmly desires to obtain justice and proceeds to initiate the corresponding legal actions with the

¹⁹ VV. AA. (2020). *Manual de litigio en derechos humanos: de la teoría a la práctica, lecciones de Colombia y El Líbano*. Dejusticia, p. 5.

²⁰ Oficina del Alto Comisionado de Naciones Unidas para los Derechos Humanos. (2021). *Informe de Resultado “Litigio Estratégico en Violencia de Género: Experiencias de América Latina”*, pp. 4-5.

²¹ VV. AA. (2020). *Manual de litigio en derechos humanos...*, *op. cit.*, p. 34.

²² In this regard, see Benjumea Rúa, A. M. & Vargas Villabona, E. (2015). *Litigio estratégico...*, *op. cit.*, p. 30.

necessary assistance; or b) that the cases have a social projection capacity, with the possibility of generating not only an individual but also a social and institutional impact, since, as mentioned above, strategic litigation can have different levels of impact, the latter favoring the protection of the rights of vulnerable groups, including persons with disabilities, in order to ensure their participation in public life and that their interests are taken into consideration within the political agenda, which ultimately leads to their empowerment and social inclusion in connection with the provisions of the 2030 Agenda for Sustainable Development²³.

From this perspective, the effectiveness of strategic litigation as an instrument of access to justice can be implemented through the participation of other non-traditional actors that advocate towards the public interest and that can collaborate with lawyers in the design of the litigation strategy; such as equality organizations, ombudsmen, foundations and associations linked to the defense of the right to equal treatment and non-discrimination, non-governmental organizations or even university's legal clinics²⁴. Thus achieving an institutional impact that translates into the reinforcement of the State's obligations in terms of human rights protection either by provoking legislative changes or public policies implementation.

Legal and procedural considerations in strategic litigation cases for multiple, intersectional discrimination of persons with disabilities

Preparation of strategic litigation

As mentioned in the previous chapters, strategic litigation is meant to trigger broader changes in the law and policies and to raise public awareness, besides from obviously seeking justice for the person(s) involved in the case.

As such, strategic litigation requires special preparation, going further than what would normally be required for a similar case which does not have a strategic reach. This subchapter is meant to highlight some key-issues which advocates might find important for effectively preparing strategic litigation cases. Keep in mind that the following is meant as general advice, and that advocates will always have to adapt to the specificities of their national legal systems and of the cases at hand.

Identifying violation of rights

Identifying the violation of rights is the first and most important step in strategic litigation. For legal professionals dealing with cases of multiple or intersectional discrimination involving persons with disabilities, this foundational step cannot be overstated. Firstly, advocates should have a clear and comprehensive understanding of the rights of people with disabilities at both national and supranational levels.

²³ *Ibidem*, pp. 31-32.

²⁴ This is the view expressed by García Añón, J. (2018). Acceder a la justicia y hacer justicia: la función de las universidades, las clínicas jurídicas y las ONG, y su impacto construyendo los límites del derecho. In: C. García-Pascual (Coord.), *Acceso a la justicia y garantía de los derechos en tiempos de crisis: de los procedimientos tradicionales a los mecanismos alternativos* (pp. 312-316). Tirant lo Blanch.

At the national level, it is worth keeping in mind that each country has its own legal frameworks and statutes that protect the rights of persons with disabilities. For example:

- Romania's current Law no. 448/2006, on the protection and promotion of the rights of persons with disabilities, which outlines the measures for social inclusion and equality.
- Spain enforces the General Law on the Rights of Persons with Disabilities and their Social Inclusion, which consolidates various regulations to ensure equal opportunities and non-discrimination.
- Italy implements Law No. 104/1992, providing assistance, social integration, and rights for persons with disabilities.

However, it is important to bear in mind that not all the relevant provisions or rights which may be violated are to be found in the general legal frameworks in place for the disabled. To the contrary, many provisions may be found in other laws, whether specific (e.g. a law on social assistance which can have provisions which concern the disabled; a law on public transport which can also have such provisions) or general (e.g. relevant provisions in the civil code, the labour code or the criminal code in your country).

Understanding these laws is crucial for identifying how national legislation addresses or falls short in protecting against discrimination, especially when multiple forms of discrimination intersect.

At the supranational level, advocates must be familiar with international treaties and conventions that supersede or complement national laws:

- The United Nations Convention on the Rights of Persons with Disabilities (CRPD) is a key instrument that promotes, protects, and ensures the full and equal enjoyment of all human rights by persons with disabilities.
- The European Convention on Human Rights (ECHR) and the Charter of Fundamental Rights of the European Union provide broader human rights protections that can be applicable in disability discrimination cases.
- European Union directives, such as the Equal Treatment in Employment and Occupation Directive (2000/78/EC), prohibit discrimination on various grounds, including disability, in the workplace.

Without clearly understanding the rights at hand, it is impossible to effectively strategically litigate. A thorough knowledge enables advocates to:

- Identify Violations Accurately: Recognize not just overt infringements but also subtle, systemic forms of discrimination that may affect individuals with intersecting identities (e.g., gender, ethnicity, age).
- Select Appropriate Legal Avenues: Determine whether to pursue cases in national courts, regional human rights bodies, or international forums.
- Craft Compelling Arguments: Leverage specific articles and provisions from both national laws and international conventions to strengthen the case.
- Seek Broader Remedies: Aim for outcomes that not only address individual grievances but also lead to systemic changes benefiting a wider community.

Moreover, understanding the interplay between national and supranational laws allows advocates to challenge inadequate national legislation by invoking higher legal standards. This is

particularly important in strategic litigation aimed at creating precedent or spurring legislative reform.

In summary, identifying rights violations in the context of multiple or intersectional discrimination requires a multidimensional legal understanding. Advocates must be well-versed in the complex tapestry of national and international laws to effectively navigate the legal system and achieve meaningful outcomes for persons with disabilities.

Identifying why previous actions did not achieve effective remedies

Strategic litigation requires a deep understanding of the historical landscape of legal actions within the specific sector of multiple or intersectional discrimination against persons with disabilities. Strategic litigators must identify why previous actions did not achieve effective remedies, as this knowledge is essential for formulating more effective legal strategies in future cases. One of the most effective methods to gain this understanding is by communicating directly with stakeholders involved in those prior actions – as can be clear from the case law compendium which is part of this handbook.

Analyzing past litigation efforts helps advocates to understand if previous cases failed due to gaps in legislation or inadequate legal protections at the national or international level. Advocates can also determine whether procedural errors or technicalities led to unsuccessful outcomes. In the most fortunate cases, if it is possible, advocates that have full access to the file can examine if the evidence presented was insufficient or if the legal arguments were not compelling enough to convince the court.

Moreover, if a greater number of cases reflect the same tendencies, advocates may be able to identify external factors which affect the litigation in question: societal attitudes, potential biases or lack of awareness proper about disability rights. Such external factors are worth keeping track of, especially in relationship with other stakeholders, NGOs or victims, in order to avoid falling into the same pitfalls.

Engaging with stakeholders—such as previous litigants, their legal representatives, NGOs, advocacy groups, and community leaders—provides invaluable firsthand insights. Through direct communication, advocates can understand the experiences and challenges faced by those directly involved in prior cases. They can identify practical obstacles that may not be evident from case documents alone, such as accessibility issues or resource limitations and establish relationships that can support future litigation efforts through shared knowledge and resources.

However, it is worth keeping note that direct communication might not be possible, for various reasons. In instances where direct communication with stakeholders is not possible, advocates should turn to publicly available resources, such as NGO Reports, Government Publications, Academic Research and Reports of International Bodies such as the EU or the UN.

When judicial decisions are publicly accessible, perusing them can be an effective way to understand the legal reasoning behind unsuccessful outcomes. This can allow advocates to detect any inconsistencies or biases in judicial decisions that could be addressed in future litigation. However, it should be noted that legal confidentiality may limit access to detailed case information. In some jurisdictions, comprehensive records of past cases may not be readily available, whereas for international cases, language differences can impede the understanding of legal documents.

To overcome these challenges, advocates can engage translators and experts, participate in legal networks, attend workshop and seminars and so on. It is important, as much as possible, to be part of and engage in peer-to-peer learning environments. Ultimately, this reflective process

of understanding why past litigation failed enhances the potential for achieving not just individual remedies but also broader societal impact through strategic litigation.

Identifying who can bring strategic litigation cases before courts

Identifying the appropriate party to initiate a strategic litigation case is crucial in effectively challenging multiple or intersectional discrimination against persons with disabilities. First and foremost, one must be mindful of the legislation in place regarding persons with disabilities, as legal standing can vary significantly between jurisdictions. The possibility exists that other bodies, such as non-governmental organizations (NGOs), may have the legal standing to bring cases before the courts on behalf of individuals or groups.

It's important to note that this matter cannot be fully understood outside the context of the national legislation itself, and a detailed legal analysis is beyond the scope of this handbook. However, advocates must be aware of the possibility that NGOs or other bodies can bring strategic litigation cases, as this can significantly influence the legal strategy and potential for success. Even if such NGOs cannot represent victims, forming partnerships can enhance the effectiveness of representation by combining legal expertise with advocacy and support services.

The question of who can bring a case is also closely tied to domestic legislation regarding legal representation. For example, lawyers may face restrictions on how they can approach potential clients, and the rules governing client solicitation can vary by jurisdiction.

Identifying who can bring a strategic litigation case is a fundamental step that requires careful consideration of national laws and ethical guidelines. Advocates must be aware of the possibilities and limitations within their jurisdiction, including the potential role of NGOs and other bodies in representing persons with disabilities. By thoroughly understanding the legal landscape, advocates can develop effective strategies to initiate litigation that not only addresses individual injustices but also contributes to systemic change in combating multiple and intersectional discrimination.

Choosing the right litigation

Once the above preparatory steps have been taken by advocates, one can address the following questions, allowing one to identify the right litigation to pursue, when several other avenues are available.

Please bear in mind that, while the following are general approaches which can be useful in any situation, they cannot exhaust all the possible situations which may arise in practice. Advocates must be cognizant of the concrete legal possibilities specific to their domestic legal systems.

What, where and against whom to launch the strategic litigation

When several possibilities exist, choosing the right avenue for strategic litigation is a sensitive subject. Advocates must choose the highest-impact route, when all other considerations are equal. This may entail choosing strategic litigation that may raise questions of constitutionality, that may lead to systemic changes, or that may elicit the highest degree of a reaction in society.

The same may be true of where to launch the strategic litigation – where advocates have the possibility to choose the venue, there are several key factors which may be in play (impact, ease of access for the disabled person, average duration of a similar case in different venues, etc).

Finally, advocates may have the possibility to lead the strategic litigation against different plaintiffs. This is, most likely, a rare instance, as domestic legal proceedings tend to be clear in this regard. However, creative advocates may find that, in certain strategic cases, they have a choice of

plaintiffs. Choosing the plaintiff that has the greatest impact is advisable, when all other issues are equal.

National or international/European bodies

Strategic litigation can take place at both a national or supra-national (that is to say European or international) level. Moreover, domestic cases which are not necessarily strategic in character can become important examples of strategic litigation when they arrive at a European level.

Advocates must be aware that, in the majority of cases, exhausting domestic remedies is a precondition to access European or international judicial bodies, as shown in the previous chapter. As such, it is sometimes difficult to separate the two. A holistic approach is necessary, especially given that advocates cannot know, in advance, the result of domestic litigation. Moreover, advocates must also be aware that, in many cases, one does not participate in strategic litigation from the absolute beginning.

Timing of the strategic litigation

Timing in strategic litigation can be seen from at least two perspectives. First of all, advocates must be aware that certain time-limits may exist for initiating such litigation. These time limits are often established by statutes of limitations, which set the maximum period within which legal proceedings must be commenced. Consequently, avoiding the expiration of the statute of limitations is a precondition for successful strategic litigation, and this aspect must be addressed with the highest priority and care. Some legal systems may provide for a short period in which the litigation must occur, requiring prompt action, whereas others may be more permissive, allowing for a longer timeframe to prepare and file the case.

Where advocates have more time at their disposal, the second perspective of timing involves choosing the exact moment when litigation may have the greatest impact. This strategic consideration allows advocates to align the initiation of legal action with factors such as shifts in public opinion, legislative changes, or significant events that highlight the issues at stake. By selecting an opportune time, advocates can enhance the visibility of the case, influence public discourse, and potentially increase the likelihood of a favorable outcome or broader systemic change.

Facts and evidence in strategic litigation

Advocates must know the facts of the case extremely well to effectively pursue strategic litigation, especially in cases involving multiple or intersectional discrimination against persons with disabilities. This entails a synergistic approach with the person with disabilities involved in the case. Establishing a deep understanding of their experiences, needs, and the specific circumstances of the alleged discrimination is crucial.

Communicating with persons with disabilities is not always a straightforward task. Disabilities can affect communication abilities, comprehension, or the comfort level of the individual when discussing sensitive issues. Advocates must be mindful of these challenges and adopt appropriate strategies: adapting communication methods (sign language, braille, simplified language, etc); being aware of and respecting cultural differences; allowing ample time for discussions, listening actively, and showing understanding of the individual's perspectives and emotions.

Moreover, advocates must be cognizant of the crucial role of evidence in strategic litigation. In efforts to enact systemic change, evidence serves not only to prove the specifics of a

case but also to highlight broader patterns of discrimination. A comprehensive gathering of evidence can demonstrate systemic issues which affect multiple individuals or groups. Advocates can verify if in their systems one can include as evidence statistical data, expert testimonies, historical records, policy analyses, and so on.

Advocates must be aware that, in such cases, securing the evidence might be necessary before initiating strategic litigation. Domestic legal systems may have avenues to secure evidence in place, such as pre-trial discovery procedures, preservation orders, freedom of information requests and so on.

Advocates must act promptly to secure evidence before it becomes unavailable or is tampered with, should follow all legal requirements and procedures to ensure that the evidence is admissible and should engage with experts in relevant fields (e.g., medical professionals, social scientists) to strengthen the evidence base, if this is possible.

Arguing strategic litigation

This final subchapter will offer some directions and suggestions which may be of use when arguing strategic litigation. Certainly, the facts and merits of the case will never be the same in two instances of strategic litigation. Advocates must be well-prepared in their arguments, regardless of the particulars of the case at hand – but the following approaches may be of use.

Using international and European sources in strategic litigation

Aside from domestic legal sources—which are outside the scope of this handbook due to their diversity—advocates may find that international and European legal sources can be invaluable in their strategic litigation cases. The specificity of each type of legal source is important, and this subchapter offers essential directions for advocates to follow when encountering such legal sources.

Using International Sources in Strategic Litigation

When considering international treaties that may be useful in a case, advocates must first verify whether the treaty is in force for their state. This means checking if the state has ratified the international treaty in question and whether the treaty has come into effect domestically. For example, the CRPD has been ratified by Romania, Spain, and Italy, making it applicable in these jurisdictions. Advocates must be aware that, depending on the domestic legal system and the treaty itself, provisions of the treaty may or may not be directly applicable. In some legal systems (often referred to as "monist" systems), international treaties become part of domestic law upon ratification and can be invoked directly in courts. In other systems ("dualist" systems), treaties must be transformed into domestic law through specific legislation before they can be applied by national courts. Even if a treaty is not directly applicable, advocates can reference it to support interpretations of domestic law or to highlight the state's international commitments.

Moreover, advocates would do well to familiarize themselves with the UN System – especially the possibility of addressing the UN Human Rights Committee and the Committee on the Rights of Persons with Disabilities – as they can become an avenue of strategic litigation which can be more accessible than other international/European avenues such as the ECtHR.

Using EU Sources in Strategic Litigation

In contrast to international treaties, European Union (EU) legal sources are fundamentally different and follow their own logic. EU law is designed to be applied uniformly across all Member States, regardless of the particularities of domestic legal orders. EU law takes

precedence over any contrary provision of domestic law. National courts are required to set aside domestic laws that conflict with EU law.

Certain EU legal instruments have direct effect, meaning individuals can invoke them directly before national courts. This is the case for provisions found in the Treaties, the EU Charter, Regulations and Decisions. Insofar as Directives are concerned, they require transposition into national law but can have direct effect under certain conditions, especially when the deadline for transposition has passed, and the provisions are clear and unconditional. Moreover, advocates must be mindful of the fact that EU Law has its own methods and principles of interpretation.

Another aspect to consider is the possibility of requesting national courts to refer questions to the Court of Justice of the European Union (CJEU) for interpretation of EU law.

Using the European Convention on Human Rights in strategic litigation

The ECHR is another pivotal European instrument that advocates are very likely to encounter during some examples of strategic litigation. The ECHR establishes fundamental rights and freedoms, and compliance is overseen by the European Court of Human Rights (ECtHR) in Strasbourg. As mentioned, the ECHR stems from the Council of Europe, which is separate from the EU, with its own mechanisms and procedures to be aware of. The Court has held that the Convention's provisions are directly applicable in Contracting States – Romania, Spain and Italy included. This entails that advocates can invoke the Convention directly during their examples of strategic litigation. The entirety of the Convention's protective provisions are outside the scope of the present handbook, but we advise advocates to familiarize themselves with the Convention's corpus of rights.

Moreover, national courts often consider ECtHR case law when interpreting their domestic laws. To give an example, the Romanian Constitutional Court often uses the Court's case law in order to hold that certain provisions of domestic laws are unconstitutional. This could lead to situations in which a multi-pronged approach is possible: domestic litigation in which ECtHR case law is invoked (with or without a constitutional challenge), followed by the possibility of addressing the Strasbourg Court itself.

However, advocates must be aware of the highly technical nature of the litigation in front of the European Court of Human Rights. They must ensure that all relevant national avenues have been pursued beforehand and then adhere to the ECtHR's procedural rules to avoid inadmissibility – which often poses great difficulties for applicants. If advocates do not have the prerequisite knowledge, it is best to find assistance with other, more experienced, advocates, or NGOs, in order to avoid wasting the possibility of strategic litigation in front of the European Court of Human Rights in that particular case.

To conclude, advocates engaged in strategic litigation should always confirm the applicability and enforceability of international treaties within their jurisdiction. Leveraging international and EU law is key, when they are found to be applicable. Finally, by understanding the procedural and substantive aspects of the ECHR, they can effectively use it in their strategic litigation, whether domestically or in front of the ECtHR itself.

Procedural steps in strategic litigation

There are three dimensions to procedure when strategic litigation is concerned: procedural steps in front of national courts, in front of other bodies, and post-judgment procedural steps to be addressed. This section will offer guidance on these three aspects.

Procedural steps in front of national courts

Engaging in strategic litigation before national courts requires a thorough understanding of domestic legal procedures and careful planning to maximize the impact of the case. Advocates must determine which court has jurisdiction over the case based on the subject matter and the parties involved. This may include specialized courts for discrimination or human rights cases. Moreover, understanding the hierarchy of the courts can allow advocates to anticipate potential appeals and how decisions may be impactful.

Advocates must ensure that they comply with procedural rules – by ensuring all documents meet formal requirements (formatting, language, information and so on) and by especially ensuring strict adherence to all procedural timelines, including statutes of limitation for filing claims, deadlines for submitting evidence, and so on. Circling back to the information provided above, it is important to ensure that the plaintiff has the legal right to bring the case themselves or to represent the injured party.

If preliminary measures exist in the legal system at hand, they can be effectively used. Advocates can consider requesting interim measures, such as injunctions, to prevent ongoing harm while the case is pending. In other cases, protective orders can be sought in order to safeguard the rights and interests of the plaintiff during litigation.

Obviously, advocates must make necessary arrangements to accommodate any disabilities of the plaintiff or witnesses, such as sign language interpreters or accessible facilities, if they are not provided as such by the domestic courts. Ideally, the domestic courts should be informed of any required accommodations well in advance.

Procedural steps in front of other bodies

As mentioned, strategic litigation may also involve proceedings before bodies other than national courts, such as administrative agencies, human rights commissions, or international tribunals. Advocates must be aware that, in each case, there are always specific procedures for submitting complaints, including special forms, supporting documents and submission methods. Ideally, advocates should be aware of all these issues well in advance, in order to inform the disabled person in question of any special considerations. Be mindful of confidentiality rules and the potential impact on the individuals involved.

If such routes are elected, advocates can check if there is any prohibition to using the proceedings as an opportunity to engage in advocacy efforts, raising awareness of the issue among policymakers and the public. Coalitions can be built, by partnering with other organizations or stakeholders to strengthen the case and its impact.

The most essential advice for advocates engaged in strategic litigation in front of other bodies than their domestic courts is to be mindful of the often very specific rules in place and to be transparent with their own stakeholders as to what can be obtained through that example of strategic litigation.

Post-judgment considerations

Finally, after a judgment is rendered, regardless of whether it is rendered at a domestic or international level, strategic litigation continues with efforts to enforce the decision and capitalize on its potential for broader impact. Certainly, some of the first considerations are whether to appeal unfavorable decisions or even aspects of the judgment that are insufficient.

Advocates must utilize legal procedures to enforce the court's decision, such as obtaining writs of execution or court orders compelling action, if the decision is not complied with. As the following chapters will show, advocacy and public engagement is also key in post-judgment considerations. The results of the case can be shared with the media, stakeholders and the public, in order to raise awareness and to promote dialogue.

Advocates must provide continued support to the client, including navigating any challenges which may arise from the judgment. Finally, advocates should share their insights with others, in order to strengthen future strategic litigation efforts.

Procedural steps are the backbone of strategic litigation, and meticulous attention to these aspects is essential for success. By carefully navigating the procedures before national courts and other bodies, and by proactively addressing post-judgment considerations, advocates can not only achieve justice for their clients but also drive meaningful systemic change. This comprehensive approach ensures that strategic litigation serves as a powerful tool in combating multiple and intersectional discrimination against persons with disabilities.

Conclusion

Strategic litigation is a powerful tool for effecting systemic change and advancing the rights of persons with disabilities facing multiple or intersectional discrimination. This chapter has outlined the essential steps and considerations that advocates must navigate to effectively harness this tool. Understanding the violation of rights is foundational. Advocates must possess a deep knowledge of both national and supranational laws, including international treaties, EU legislation, and the European Convention on Human Rights. This comprehensive legal awareness enables them to identify violations accurately, craft compelling arguments, and select appropriate legal avenues. Analyzing why previous actions did not achieve effective remedies allows advocates to learn from past shortcomings. By communicating with stakeholders, reviewing public reports, and examining judicial decisions, they can refine their strategies to avoid repeating past mistakes and enhance the potential for success. Identifying who can bring the case is crucial, given the variations in legal standing and representation rights across different jurisdictions. Advocates must navigate domestic laws to determine whether individuals, NGOs, or other bodies have the authority to initiate litigation and how they can ethically and effectively represent clients. The timing of strategic litigation involves both adhering to procedural deadlines and strategically selecting moments that may maximize impact. Advocates must be vigilant about statutes of limitations while also considering external factors that could influence the effectiveness of their case. Building a strong case requires knowing the facts intimately and establishing a relationship of trust and mutual respect with clients. Effective communication and sensitivity to the needs of persons with disabilities are essential. Moreover, the role of evidence is paramount; securing and preserving robust evidence strengthens the case and underscores systemic issues that may lead to broader change. Finally, navigating the procedural steps before national courts and other bodies, as well as addressing post-judgment considerations, ensures that the litigation process is thorough and that the outcomes have lasting impact. By meticulously managing these procedural aspects, advocates can enforce judgments, promote implementation of remedies, and leverage decisions to advocate for policy reforms.

In summary, strategic litigation requires a multifaceted approach that combines legal expertise, strategic planning, and compassionate advocacy. By diligently applying these principles,

advocates can not only achieve justice for individuals but also drive meaningful societal change, fostering a more inclusive and equitable environment for persons with disabilities.

How to build an advocacy strategy: thinking beyond the case

To explain the importance of advocacy in the context of strategic litigation, it is useful to start from defining the type of legal system within the relevant jurisdictions.

Civil Law legal systems are embedded within all EU member states, meaning law is codified - based on written laws and codes. Other jurisdictions may operate under Common Law legal systems, where instead judicial precedents (court decisions) are one of two major sources of law.

In the EU model, the main sources of law are (with possible differences between one country and another) written codes and laws, which may include a civil code, a criminal code, a code of civil procedure, a commercial code and possibly other specific laws. These other specific laws may include the Constitution - the supreme law to which all other laws must conform - and regulations and decrees issued by the executive to regulate specific matters.

Therefore, the rulings of the Courts are not binding, and, at most, the decisions of higher courts can have a significant influence and serve as a persuasive guide.

This premise is necessary to understand that protection of a right through strategic litigation cannot be enhanced exclusively through courtrooms.

Advocacy and communication activities are also needed, in support of the strategic case - in order to lead to the desired change.

From here, the focus can be on how to build a good advocacy activity and what the necessary features are.

First of all, it is essential to underline that a strategic case is an integral part of an advocacy activity and therefore, they should be treated as equal in importance.

In this sense, the case to be brought before a Court must have two specific requirements:

1. Legal aspects that may suggest success of the lawsuit or the possibility of confronting a part of the law where there is a legal vacuum - an area of the law where there is uncertainty or a lack of clarity;
2. Challenging the case in certain districts where the Courts are generally more open and willing to delve into the specific issues that one wants to raise.

Although these two aspects are both legal in nature, they are fundamental to a successful action and strongly anchored to advocacy activity. If the legal action is unsuccessful, this could certainly compromise any effort aimed at change and indeed further motivate detractors.

Therefore, when choosing a legal case, even in the initial phase of choosing legal cases, it is essential to reason with the desired communication and advocacy approach.

Why an advocacy strategy is important

Effective advocacy is essential to have in place during all phases of the litigation - before, during and after. Good advocacy strategies can amplify the positive impact of legal actions, and promote sustainable and long-lasting changes in various areas.

In particular, before and during litigation, advocacy can help raise public awareness on the issue and create consensus around it. This can put pressure on political decision-makers and influence public opinion. Moreover, it can bring support and legitimacy to the cause being pursued,

mobilize public opinion and civil society organizations, and provide moral and material support to the parties involved in the litigation.

It can also constitute an element of continuous monitoring of the legal process, promoting transparency and preventing abuses of power or injustices. After the litigation concludes, a good advocacy strategy can support the work done by lawyers in the courts by ensuring that States effectively implement the decisions - ensuring that they are respected and applied correctly.

Implementation emerges in a change in the existing legislation. From this point of view, advocacy can push for the reform of the laws at the center of litigation, improving them and adapting them to the new realities that have emerged from the legal case. Changing law often requires political and institutional change, and an advocacy campaign is what can achieve this.

Advocacy can also have a broader impact on society, promoting a culture of respect for human rights and social justice, enhancing empowerment activities for vulnerable communities, the promotion of socially responsible practices, and promoting active civic engagement. It can also educate the public on important legal issues and raise awareness among the public about rights and the implications of litigation. This can help to prevent future abuses and support a more informed and just society.

What changes can good advocacy lead to

Advocacy is in fact a powerful tool to promote positive and lasting change. Through well-planned strategies, it can influence public policies, improve the functioning of institutions, reform legislation and generate significant legal and social effects, contributing to a more just and inclusive society.

For instance, fairly recent advocacy had a powerful impact on the rights of people with disabilities. A series of stakeholders active on the issue of disability has led to important changes in policies and legislation at EU level, improving the lives of people with disabilities. The ratification of the UNCRPD, the European Disability Strategy 2010-2020 and the subsequent Strategy for the Rights of Persons with Disabilities 2021-2030 are concrete examples of the outcomes of those advocacy activities, which positively influenced the regulatory and institutional framework, promoting the inclusion and rights of persons with disabilities. Indeed, it was only thanks to the pressure exercised by non-governmental organizations (NGOs), activist groups and coalitions of persons with disabilities, that the Convention was adopted by the EU in 2010.

This collective commitment has led to a more coherent regulatory framework for the rights of persons with disabilities in Europe. The European Commission development of the European Disability Strategy 2010-2020 addressed persistent challenges and further promoted the inclusion of persons with disabilities in Europe. It was introduced to remove barriers for persons with disabilities, improve their participation and ensure equal opportunities for them.

Advocacy can also lead to significant changes in the work of national and supranational institutions. For example, advocacy carried out by Transparency International has influenced anti-corruption policies in several European countries, contributing to the creation of the European Public Prosecutor's Office (EPPO), a supranational institution to fight fraud and corruption in the EU.

As regards improvements in legislation, the *European Accessibility Act 2019* passed following lobbying by the European Disability Forum (EDF) and other organizations aimed at improving accessibility across the EU. The Act established common accessibility requirements for products and services such as ATMs, ticket machines, computers, telephones, TVs, banking services, e-commerce and transport. This Act aims to improve the accessibility and inclusion of people with disabilities across the European Union.

A further example of the importance of advocacy activity in the area of disability rights, can be seen through Regulation (EC) No. 1107/2006 of the European Parliament and of the Council, concerning the rights of persons with disabilities and persons with reduced mobility when traveling by air. Before the adoption of the Regulation, persons with disabilities and reduced mobility faced numerous barriers and discrimination when undertaking air travel. Thanks to the lobbying activities of several organizations, it was possible to achieve the adoption of this Regulation in July 2006.

Finally, a good advocacy strategy can have wide-ranging effects at the social and community level, thanks to a change of paradigm and vision regarding the issues addressed. In the case of people with disabilities, for example, advocacy can lead to an increase in public awareness concerning the rights of people with disabilities. This can contribute towards reducing stigma, increasing the active participation of persons with disabilities in social, cultural and political events, and fostering a sense of belonging amongst those living with disabilities, within communities. Empowerment and advocacy activities can also ensure greater participation in decision-making processes, public consultation, working groups and advisory committees, further enhancing autonomy and self-determination. Moreover, campaigns fostering the inclusion of people with disabilities in the workplace can improve economic opportunities for those living with disabilities and contribute, overall, to diversity and inclusion within society.

As demonstrated through the examples above, effective advocacy can lead to significant changes in many areas, within public policy, within legislation, within institutions, and within the broader community, by promoting justice, equality and human rights and bringing about a positive long-lasting impact.

The resources needed for an advocacy strategy

The implementation of an effective advocacy strategy requires a series of well-planned and managed resources. These can be divided into three categories (financial, human and material) that jointly contribute to the success of the initiative.

Financial resources

It is essential to allocate, within the overall budget of a campaign or initiative (even strategic litigation), funds exclusively for advocacy activities. Generally, for this type of activity, funds may be used to cover an array of costs including staff costs, experts, and consultants who will work on the initiative. Secondly, it may be necessary, in some phases, to support the costs of research, studies, reports, analyses, and surveys. Thirdly, there may be costs relating to the production of materials, the organization of events, the hiring of spaces or advertising. Therefore, detailed planning is essential to build a series of actions and ensure the necessary resources to then carry them out.

The planning of activities also includes the search for sources of funding. A good initiative must also include this aspect and should include a series of specific initiatives designed to raise funds for the necessary expenses.

This could be via:

- Grants and Financing: from foundations, non-governmental organizations (NGOs) and international institutions that support advocacy projects.
- Individual Donations: launching crowdfunding campaigns to obtain donations from individuals and communities interested in the cause.
- Fundraising Events: organizing events, gala dinners or auctions to raise funds.
- Partnerships with Companies: establishing collaborations with companies that are interested in supporting social causes and human rights.

Human Resources

In addition to financial resources, there are also human resources required. These can be divided into three different categories:

1. **Staff:** These are the people who will work on the campaign; a dedicated team generally composed of experts in communication, public relations, lobbying, laws and public policy. Staff will be responsible for all the activities that will be carried out and will ensure adherence to the strategy developed.
2. **Volunteers and activists:** In many cases, advocacy campaigns can be supported by volunteers and activists who wish to actively participate in a mobilization, enhancing the wider impact of the advocacy activities through their direct mobilization, both in physical form (distribution of materials, participation in public events, etc.) and in virtual form (sharing posts, signing petitions, etc.). Involving volunteers and activists can sometimes make all the difference in ensuring that your advocacy strategy achieves its objectives.
3. **Consultants and Experts:** Collaborating with external consultants and experts can guarantee a contribution of specialized skills in key areas of advocacy work which you may not have as part of the skill set of your day-to-day team, as well as increasing support and credibility for your initiative.

Material resources

Finally, a good advocacy strategy cannot be complete without material resources. These are generally:

1. **Communication materials:** flyers, brochures, videos, reports, websites and content for social media.
2. **Event spaces:** access to conference rooms, meeting spaces and places for public events and workshops.
3. **Technology and equipment:** Computers, campaign management software, multimedia content production tools and supporter relationship management platforms.

To secure this type of resources, research activities can be combined with fundraising activities. In particular, they can be obtained through In-Kind donations. This includes collaboration with different types of entities (institutional and non-institutional) that can provide access to spaces and equipment and the establishment of partnerships with companies that can offer logistical and material support in exchange for visibility and recognition.

Your advocacy strategy must, taking into account what has been said so far, include at least three phases:

1. **Planning and Budgeting:** A detailed plan must be created that outlines the necessary resources and a realistic budget.
2. **Monitoring and Evaluation:** Monitoring systems must be implemented to track the use of resources and evaluate the effectiveness of advocacy activities.
3. **Adaptability:** Be ready to adapt the strategy and distribution of resources based on the results obtained and changes in the operational context.

How to identify potential partners

To ensure the success of your advocacy strategy, it is essential to build networks of organizations, media, and stakeholders that will support the cause. So, how does one identify the right partner for an advocacy activity?

Firstly, it is important to define the results that you want to achieve through the advocacy activity and the resources needed to achieve them. This will lead to identifying the types of partners that could be most useful. If, for example, our initiative is aimed at creating changes in the local jurisdiction, it can be much more useful to create collaborations with local stakeholders, rather than with entities or people who carry out activities at national or international levels. Likewise, in the case of initiatives that aim for legal change, it can be essential to involve pro-bono teams of law firms, rather than other types of stakeholders without legal knowledge.

Once the areas of intervention and therefore the most relevant potential collaborative stakeholders have been identified, we can proceed to map them (which we will see in detail in chapter 6). A stakeholder map allows you to identify all the possible entities and individuals that may be affected by the advocacy campaign.

Generally, a stakeholder map includes: Non-Governmental Organizations (NGOs), Academic Institutions, Governments and Government Agencies, Media, Private Sector, Influencers, etc.

This should give us a picture of who and what is active around the theme issue, allowing us to identify the degree of possible strategic involvement of stakeholders and, consequently, proceed to the research of partners. What should be emphasized is that although stakeholder mapping is one of the activities carried out in a preliminary phase, it must then be constantly updated over time, as other possible partners may emerge, whether they are associations, media, or people, who are relevant to the theme but may not have been mapped during the initial phase.

Who are the right partners for a campaign

There are a number of categories of stakeholders, but for now the focus will be on two: mass media and other national/international stakeholders.

Mass Media

The media can represent fundamental support in any advocacy campaign, as they allow you to reach a wider audience, and place the issue at the center of the political agenda, as is critical based on the theory related to agenda-setting.

In the first phase of mapping, it is necessary to start by identifying newspapers, magazines, TV and radio channels, blogs and online platforms that cover issues relevant to your cause. Also identify any key journalists who seem to follow the issue on which the campaign will focus.

It is essential that this mapping takes into account the fact that the media that are identified correspond to the target of the campaign and allow it to be reached. It is therefore not a quantitative question, but a qualitative one.

Subsequently, you can proceed to contacting identified journalists and editors, both where pre-existing relationships exist or creating new relationships.

Other National/International Stakeholders

There may be entities that already work on the subject of our campaign and have interests related to the cause. In this case too, it is useful to profile entities of this type, with experience and documented success, in this case through networking that also includes participation in forums, conferences, workshops. Anywhere where it may be possible to meet and evaluate potential collaborations. From there you can proceed towards contact.

These organizations can be both national and international. In fact, even in the case of national campaigns, collaboration with foreign entities can play a strategic role in certain disputes have been addressed and even won.

To decide whether to initiate a collaboration, there are a series of issues that need to be considered, to avoid foreseeable obstacles during the course of a campaign. Let's look at them briefly:

1. **Objective Alignment:** Ensure that potential partners share the same **objectives** and **values** as the campaign.
2. **Capacity and Resources:** Ensure the partner's ability to contribute towards resourcing (human rather than economic), skills and contact networks must be assessed.
3. **Reputation and Credibility:** It is essential to conduct checks on the reputation and credibility of the partner in the sector and with the target audience.
4. **Previous Experience:** The work done in the past by the partner in similar advocacy activities should be examined also.

It is essential to remember that having partners can be a fundamental value-add for a campaign, but only where those partners bring unique or relatively unique capacities and capabilities to the fore.

After identifying the partners, it is necessary to build relationships and negotiate how collaborations will work. This is a step for which it is useful to provide adequate time. The higher the number of potential partners involved - the more time and effort that will be needed to find a way of working that suits everyone. Thus it will be necessary to organize meetings to discuss potential collaborations and define roles and responsibilities. Those meetings should address whether formal agreements (MOUs, for example) should be put in place clearly outlining common objectives, expected contributions and methods of collaboration. Where there is sensitive data that will be collected (for example, email addresses following the signing of a petition) there should be an agreement on how these will be managed. It will be necessary to maintain continuous and open communication to ensure that the collaboration is effective and aligned with the objectives of the campaign.

Campaigns can last for many months - even years at times - so it will be useful to monitor the progress of the collaboration by obtaining regular feedback from partners and evaluate the effectiveness of the collaboration itself. Importantly, everyone should be ready to adapt their strategy based on this feedback and any relevant changes in the campaign's context.

In conclusion, identifying and collaborating with the right partners requires a systematic and strategic approach. By clearly defining the objectives, mapping the stakeholders, evaluating potential partners and building solid relationships, it is possible to maximize the impact of our advocacy activities and achieve significant results.

Giving visibility to the case: strategies during and after legal actions

To conclude this chapter, let's see what strategies can be used to give visibility to the case throughout our campaign. As mentioned, strategic litigation is a powerful tool to promote social and political change, but the impact of a lawsuit in these cases is not limited to the result achieved in a courtroom. To ensure a lasting effect, it is essential to maximize the visibility of the case both during the case and after proceedings are finalized. Strategic communication plays a crucial role in creating public awareness, mobilizing support and influencing public debate. Here are some key strategies to ensure that the case gets and maintains the attention it deserves.

1. Build an engaging narrative

Firstly, a clear and engaging narrative needs to be built around the case. The narrative must be accessible to the general public, avoiding complex legal technicalities, and appeal to the relevant underlying values. It is essential to identify the central themes of the case and connect them to issues of broader public interest, such as human rights, social justice, or government

transparency. Creating a human story that highlights the personal experiences of those directly involved in the case can help generate empathy, connection and interest.

2. Use traditional and digital media

Engaging with the media is essential to amplify the reach of the case. Writing press releases and establishing relationships with journalists who cover related issues can help ensure regular media coverage. It is also important to leverage digital media, such as blogs, social networks and podcasts, to reach a wider and more diverse audience. Creating multimedia content, such as videos or infographics, can help better explain the case and keep it relevant over time.

3. Partner with support organizations

Civil society organizations, activist groups and NGOs can be valuable allies in raising the profile of the case. These groups can provide platforms for communication, promote awareness campaigns and mobilize their members and audience to support the cause. It is important to establish strategic partnerships with these organizations from the beginning to create a support network that can act as a sounding board.

4. Mobilize the public through awareness campaigns

Well-designed awareness campaigns can increase public pressure and influence decision-making. Tools such as online petitions, public demonstrations, awareness events, and press conferences can engage the public and maintain attention on the case. The goal is to create a grassroots movement that supports the cause beyond the immediate legal context.

5. Ensure a lasting memory of the case

It is relevant to remember that a legislative amendment achieved thanks to our campaign is not an achievement that will necessarily last forever. This is especially so regarding more controversial issues or those that concern aspects that are affected by polarization or strong ideological approaches. Wins can also be overturned. Law can be changed back. There is always the risk that at a given moment there may be an attempt to reverse advances made. It is therefore important to continue to tell the story of the case, through articles, books, documentaries, and other means of communication. Creating educational resources, such as guides and reports, can help keep the case relevant for law firms, researchers, and future activists. Additionally, commemorating significant anniversaries of achievements through public events or social media campaigns can help keep public consciousness of the case alive and remind the public of the importance of the fight.

6. Evaluate and document the impact

Finally, it is essential to evaluate and document the impact of the case in the long run. Collecting data, feedback and testimonies can help measure how the case has influenced policies, practices or social awareness. These results can then be used to guide future strategic legal actions and to demonstrate the importance of the case as an example of positive change.

These are some of the strategies that, if implemented, can ensure lasting visibility for a strategic litigation case, maximizing not only the immediate but also the long-term impact. The key is to combine strong public communication with continuous engagement, turning a single legal case into a catalyst for social change.

A general model of goals and objectives of the advocacy strategy

Let's start with design thinking

When promoting an advocacy campaign, it is essential to use tools that can help us make it effective and, hopefully, successful.

From this point of view, it is fundamental to follow an approach that is centered on people: design thinking.

Advocacy campaigns aim to influence opinions, behaviors and public policy. To achieve these objectives it is essential to deeply understand the needs, motivations and challenges of the individuals or communities that you want to involve and mobilize.

From this point of view, Design Thinking has established itself over time as an innovative approach to problem solving and became one of the most effective methodologies for developing products, services and strategies focused on user needs.

Initially born in the context of design, it was subsequently adopted within various sectors, from IT to marketing, to management, thanks to its ability to stimulate innovation through an iterative and human-centric process. Design Thinking is based on three fundamental principles: *empathy, experimentation and iteration*.

1. Empathy and deep understanding of stakeholders

Design Thinking begins with a meticulous research and observation phase, during which the experiences, needs and emotions of the stakeholders involved, such as interest groups, policy-makers, the media and the general public, are explored. This empathetic approach allows the promoters of the advocacy campaign to construct a more relevant and authentic message, which truly resonates with people, and stimulates the desired change.

2. Experimentation with innovative and creative solutions

Advocacy campaigns often address complex and multifactorial problems, which require creative approaches to overcome cultural, social or political obstacles. Design Thinking promotes the envisioning of multiple solutions, encouraging teams to explore new ideas, formats and communication channels, fostering innovation in content creation, mobilization tactics and persuasion strategies.

3. Iteration and adaptability

An advocacy campaign often needs to adapt quickly to changes in the social, political or media context. Design Thinking emphasizes rapid prototyping and testing of ideas (and rapid discarding of approaches that don't work) through constant feedback, allowing organizers to continuously interact and improve the messages, strategies and tools used. This flexible approach ensures that the campaign remains effective and relevant, even in a changing context.

In addition to these three principles, using Design Thinking in designing an advocacy campaign can also be important for:

1. Ensuring interdisciplinary engagement and collaboration: Design Thinking encourages collaborative work between different teams and co-creation with the final beneficiaries of the campaign, such as community members or interest groups. This collaboration can lead to a deeper

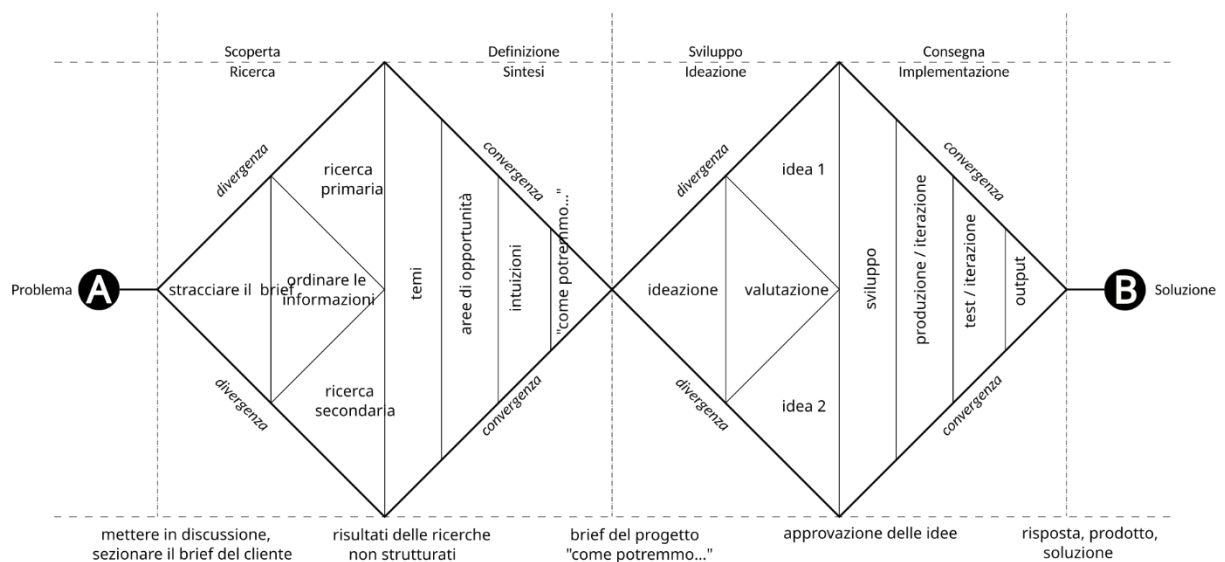
understanding of the issues and greater legitimacy and acceptance of the proposed solutions. Furthermore, directly involving stakeholders in the design of the campaign can strengthen their sense of ownership and commitment to the cause.

2. Provide a focus on impact and effectiveness: Advocacy campaigns are geared towards social change, and Design Thinking helps maintain a focus on outcomes and impact. Through the process of defining the problem, ideating, prototyping, and testing, you can develop strategies that not only raise awareness, but also lead to concrete, measurable action. This increases the likelihood that the campaign will achieve its behavior or policy change goals.

3. Build persuasive narratives: A successful advocacy campaign requires powerful narratives that capture attention, engage emotionally, and motivate action. Design Thinking helps build these narratives by centering the discourse on the experiences and stories of the people involved, creating authentic and engaging emotional connections that make the message more compelling and memorable.

There are several approaches and models within Design Thinking, each with its own characteristics, but all based on the common principles discussed so far. Among these approaches, the most used globally are those of the Stanford school and the Double Diamond, considered standards for their balance between structure and flexibility, which allows them to be adapted to various contexts and sectors.

In this specific case it can be used the Double Diamond approach.



The Double Diamond is a model that visually represents the Design Thinking process and provides a clear structure to guide the team through the different stages of development. Developed by the British Design Council in 2005, the Double Diamond consists of two consecutive diamonds that represent the stages of "divergence" and "convergence", which constitute the phases of an advocacy strategy.

In the first stage of divergence, the focus is on exploring the problem: gathering information, observing users and understanding their needs, in order to gain a broad and complete understanding of the situation. This stage culminates in the convergence stage, where the information gathered is synthesized to clearly define the problem to be solved.

The second diamond represents a cycle of divergence and convergence again, but this time it is solution-oriented. In this stage, design teams generate a wide range of creative ideas (divergence), which are then evaluated, refined and selected to develop one or more promising solutions (convergence). The Double Diamond is not a linear process, but a model that emphasizes the need to explore widely before narrowing down the field of solutions, reflecting the iterative and experimental approach of Design Thinking. This methodology has proven particularly useful in complex and uncertain contexts, where standardized solutions often fail to capture the nuances of human needs and evolving social dynamics.

Through this use of Design Thinking and the Double Diamond approach, it is possible to build an advocacy campaign that accounts for the complexity of the topic that will be addressed, the lines of action that can be followed and those that are best avoided (also possibly because they have already been followed), the possible stakeholders active on the topic, the existing narratives, etc.

Coalition building and stakeholder mapping

Coalition building is one of the key elements for an effective advocacy campaign in the context of strategic litigation. Building a strong and cohesive coalition allows you to amplify the voice of the individual and increase the impact of the campaign. As we have also seen in chapter 5, a coalition can include a wide range of actors: non-governmental organizations (NGOs), trade associations, interest groups, lawyers, researchers, academics, and individuals motivated by the cause.

The first step to follow in building a coalition is to map stakeholders. This is certainly also one of the first phases to be implemented following the Double Diamond model (then keeping this mapping constantly updated, both in the design phase of the campaign and when it is active).

Stakeholder mapping is an essential component of any effective advocacy activity. It allows you to navigate complex contexts, to direct resources strategically, and to maximize the impact of the initiative. Through careful stakeholder analysis and targeted engagement strategies, it is possible to build the necessary support, mitigate opposition and, ultimately, promote the desired social and political change.

Stakeholder mapping generally involves several steps: stakeholder identification, to determine who are the relevant actors who have an interest or can be influenced by the advocacy initiative; subsequent stakeholder analysis to assess the degree of influence, the level of interest and consequently who could actively support the initiative, who could oppose it, and who can remain neutral; the classification of stakeholders through a four-quadrant matrix based on their level of influence (high or low) and interest (high or low). This helps to define priorities and develop targeted engagement strategies; based on the analysis and classification, engagement strategies are defined. For example, stakeholders with high influence and high interest need to be closely involved and informed, while those with low interest and low influence may only require periodic updates.

In summary, in the context of an advocacy activity, stakeholder mapping can be useful because it provides a clear vision of who are the main actors involved in the context of the cause, allowing to better understand the power dynamics and potential allies and opponents; define strategic priorities, for example by deciding to focus energies on a small group of stakeholders with high influence and interest, rather than dispersing resources on an excessive number of subjects with a limited impact; develop targeted engagement strategies by deciding which messages and communication channels to use for each group, increasing the probability of obtaining their support or at least reducing opposition; anticipate and manage reactions by preparing appropriate responses and mitigate risks, also through proactive meetings, open dialogue or actions aimed at changing misperceptions; create strategic alliances by identifying potential allies and partners who can provide support, resources and additional visibility; monitor progress and adapt strategies by monitoring changes in the position or influence of stakeholders throughout the action cycle, adapting strategies accordingly; increase legitimacy and consensus, while also strengthening the credibility and transparency of advocacy.

Returning to coalition building, there are other important steps to follow:

1. Define common goals: a coalition is only as strong as the agreement on common goals. The goals must be clear, measurable and shared by all coalition members. Organize brainstorming sessions or workshops to discuss and agree on these goals. It is useful to use facilitation tools such as the "Theory of Change" to visualize the path to the desired change.

2. Establish roles and responsibilities: each coalition member should have a well-defined role that reflects their unique skills and resources. Project management tools such as the RACI (Responsible, Approve, Consult, Inform) diagram can be used to distribute responsibilities and ensure that all critical areas are covered.

3. Create effective communication mechanisms: Good internal communication is essential to maintain coalition cohesion. Collaboration platforms such as Slack, Microsoft Teams or Asana can be used to keep members updated and engaged. Regular meetings, both in person and online, to discuss progress, challenges and necessary adjustments will be essential.

4. Build trusting relationships: Invest time in building strong personal and professional relationships between members, by organizing social gatherings, team building exercises or simply taking the time to better get to know the people you work with.

The phases and duration of a campaign

The duration of a strategic litigation advocacy campaign can vary greatly depending on the objectives set, the legal and political context, and the resources available. However, it is crucial to define a clear timeline to ensure that the campaign maintains the necessary momentum and reaches its objectives in good time.

Following the phases foreseen in the Double Diamond (but also in other models referring to Design Thinking) it is possible to identify different actions and, for each of these actions, a time frame (in this case developed over a period of 12 months).

1. Preparation and planning (1-3 months). This phase includes stakeholder mapping, the preparatory research phase to investigate in depth the topic that will be dealing with, the construction of the coalition, the collection of resources (human, financial, technological) and the definition of the objectives.

2. Development of the strategy and launch of the campaign (3-6 months). The second phase may include creating key messages, launching the public campaign, engaging with the media and promoting the activities.

3. Implementation (6-12 months). This is the phase in which the operational phase is at its highest, with concrete legal actions, mobilizing supporters, awareness events and lobbying activities.

4. Interim evaluation and adaptation (6 months). It is essential in every campaign and initiative to foresee objectives (we will go into detail later) and a periodic evaluation of the progress achieved, also in order to implement any adjustments or adaptations of the strategies and tactics, based on the feedback and results obtained.

5. Consolidation and closure (6-12 months). In the last months of work, the successes will be strengthened, the implementation of judicial decisions and the consequent policy changes ensured.

As mentioned, an advocacy campaign can also have different durations in reference to the factors already illustrated, but these various phases remain unchanged. What can change is point 4, which could include, in the case of campaigns lasting more than 12 months, even more intermediate evaluations.

Campaign Evaluation: Methods and Tools

Every advocacy initiative must have clear and measurable goals, or SMART in short. SMART stands for Specific, Measurable, Achievable, Relevant, and Time-bound. A specific goal clearly describes what you want to achieve, while a measurable goal allows you to quantify your progress. An achievable goal is realistic and possible to achieve with the resources available, and a relevant goal is aligned with personal or business priorities. Finally, a time-bound goal has a defined deadline, which helps maintain motivation and ensure that efforts are geared toward success within a specific time frame. Using the SMART method helps make goals more concrete, trackable, and achievable.

Only by setting goals in this way can you proceed with an evaluation of the campaign to understand what worked, what didn't, and how to improve in the future. This evaluation, as seen in the previous paragraph, is useful to also take place in intermediate phases of the campaign, setting intermediate objectives from the beginning, in addition to the final objectives.

As well as objectives, evaluation methods must also be integrated into the campaign from the beginning, with clear and measurable indicators.

In this regard, there are different types of evaluation methods, which can adapt to the specific needs of a campaign and be used jointly or even independently of each other.

- Monitoring and evaluation (M&E): uses a combination of formative evaluation (during the campaign) and summative evaluation (at the end of the campaign) to collect quantitative and qualitative data on progress towards objectives.
- Media analysis: monitors media coverage of the campaign using media analysis tools to evaluate the visibility and impact of the message.
- Surveys and stakeholder feedback: collect feedback from coalition members, partners and supporters to understand the perception and impact of the campaign.
- Key Performance Indicators (KPIs): define specific KPIs to measure the effectiveness of advocacy activities, such as the number of policies influenced, the

number of events organized, the media coverage obtained, and the growth of public support.

There are different evaluation tools available for this activity:

- M&E platforms such as KoBoToolbox or Qualtrics to collect and analyze data.
- Google Analytics and Social Media Insights to monitor the impact of online campaigns.
- Survey Monkey or other online survey tools to collect feedback from supporters and stakeholders.

Conclusion

Advocacy in the context of strategic litigation requires careful planning and strategic use of available resources. Building an effective coalition, obtaining the necessary resources, defining a realistic timeline, and adopting adequate evaluation methods are essential steps for success. Planning each phase carefully, while maintaining flexibility to adapt to changing circumstances, is the key to achieving the desired objectives and generating a lasting impact.