

EQUINET LEGAL TRAINING (SUMMARY)

18-19 March 2013, Berlin, Germany

The Equinet legal training that took place in Berlin, on the 18th-19th of March, was jointly organized by Equinet and the [Federal Anti-Discrimination Agency \(FADA\) of Germany](#). The event hosted presentations by expert speakers specialized in the interpretation and application of the European equality legislation and was attended by equality bodies' representatives who are handling directly cases of alleged discrimination. The legal training offered the participants the opportunity to enhance their skills and develop their expertise through two days of learning, networking and information exchange.

In her opening statement to the legal training, *Christine Lüders*, the Director of the Federal Anti-Discrimination Agency welcomed colleagues to the training. She gave a short account of the most important activities of FADA, focusing on disability issues as 2013 is FADA's year dedicated to disability discrimination. She also emphasized the importance of this training as a tool to combat discrimination since many of the equality bodies nowadays are facing difficult times due to the economic crisis. *Jozef de Witte*, from the Center for Equal Opportunity and Opposition to Racism (Belgium) and Chair of the Equinet Executive Board, focused on the main objectives of the training and also introduced the general framework of the event.

The **first Session** of the legal seminar was dedicated to evidence in discrimination cases. *Ms Thien Uyen Do*, from Migration Policy, Group gave a key note presentation on evidence in discrimination cases and the place of situation testing in the system. She discussed the issue of shifting the burden of proof and highlighted the different types of evidence and how to use them in a discrimination case. *Mr. Alexander Klose*, from the Büro für Recht und Wissenschaft, made a valuable contribution with his lecture on legal and methodical issues relating to situation testing in Germany. *Mr. Klose* presented key findings of a recent study on situation testing prepared for FADA in the sectors of leisure, housing and employment and also analyzed the methodological and legal requirements of testing procedures.

Session 2, the first workshop of the legal training, was centered around different types of evidence and the analysis of a case study on shifting the burden of proof. The participants were divided into four working groups and were requested to answer a series of questions on a specified case study regarding a citizen of an EU Member State that had been denied access to a bar because of his ethnicity. This workshop provided an opportunity to exchange information about direct and indirect discrimination, different national approaches to issues like situation testing, different types of evidence and shifting the burden of proof.

During **Session 3**, *Ms. Barbara Bos* from the Netherlands Institute for Human Rights, a quasi-judicial equality body, presented to the participants some practical experiences of judging evidence and shifting the burden of proof from the casework of her equality body. Furthermore she provided

detailed information on their understanding of the facts that establish a presumption of discrimination and the general guidelines that have to be applied.

Session 4 started with a presentation by *Thomas Henze* from the unit of the German Federal Ministry of Economics and Technology responsible for the representation of Germany before the European Courts. *Mr. Henze* presented a comprehensive analysis on the practicalities of references for preliminary rulings to the Court of Justice to the EU from the perspective of the equality bodies. Furthermore, he discussed the implications of the recent *Belov* case (C-394/11), where the CJEU has decided that the Bulgarian equality body was not to be regarded as a 'court or tribunal' and thus could not refer a case for a preliminary ruling. *Ms Claire Collier*, from the British Equality and Human Rights Commission, presented the practical aspects of involvement in a case before the European Court of Human Rights. Her interactive presentation provided the participants the opportunity to learn about the procedure in front of the Strasbourg Court and to observe the functioning of the online tools on the ECtHR's site. Furthermore she analyzed explicitly third party interventions and also referred to some examples of EHRC interventions.

During the **Session 5**, working groups examined ways of bringing a case before the European Courts. In this Session, the NEBs discussed about their competences on national and European level and looked into possible ways of engaging in cases brought to the CJEU and the ECtHR.

The second day of the legal training, **Session 6**, was dedicated to discrimination on the ground of disability. *Dr. Andreas Inghammar* from Lund University gave an inspiring lecture on disability discrimination while focusing on the complexity of this issue mostly due to the large diversity of persons with disabilities, the 'elitist' legislation (focusing on the less vulnerable persons) and the uncertainty of the meaning of the concept of disability itself. Moreover he addressed the main problems in the field of disability discrimination and insisted on the need to clarify the legal situation by encouraging interesting cases before the courts and raise awareness on disability. The second lecture of the day was also dedicated to disability as a ground for discrimination and also shed a light on the issue of chronic diseases. *Mr. Tarek Naguib*, from the Centre for Social Law, Zurich University of Applied Sciences, analyzed whether and when chronic disease can be considered as a ground for discrimination and presented findings of a study on disability commissioned by FADA.

For the last workshop, **Session 7**, participants were asked to discuss questions regarding a chronic illness case. The working groups, through productive discussions, concluded that a woman with insulin-dependent diabetes who has been denied a promotion to a different working position due to her chronic illness suffered direct discrimination on grounds of disability or health status and the different treatment is not justified. Furthermore, working groups shared details about sanctions and remedies which varied from member state to member state.

In their concluding remarks, both *Christine Lüders* and *Anne Gaspard*, the Executive Director of Equinet, underlined the importance of this legal training, through all the fruitful discussions, networking and information exchange. The feedbacks from participants have been very positive and if you wish to know more about this Equinet legal training, please check our website where you will find the detailed training program, most of the presentations and other useful material.

You can find all the speakers' presentations on the [webpage of the training](#).

To keep up to date with the latest development from equality bodies and Equinet, we encourage you to subscribe to our newsletter (from the home of the Equinet website www.equineteurope.org) and follow us on [Facebook](#) and [Twitter](#).