



EQUINET SEMINAR ACCESSIBILITY AND REASONABLE ACCOMMODATION

4 & 5 April 2016 - Vienna, Austria



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Equinet warmly thanks the **Austrian Disability Ombudsman** for co-hosting the seminar and the chairs, speakers and participants for having contributed to the success of this event.

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EQUINET & SEMINAR

BACKGROUND

Equinet is the **European Network of Equality Bodies**, a membership organisation bringing together [45 equality bodies](#) from 33 European countries including all EU Members States.

Equality bodies are public organisations assisting victims of discrimination, monitoring and reporting on discrimination issues, and promoting equality. They are legally required to do so in relation to one, some or all the grounds of discrimination covered by European Union law – **gender, race and ethnicity, age, sexual orientation, religion or belief, and disability**.

Equinet promotes equality in Europe through supporting and enabling the work of national equality bodies. It supports equality bodies to be independent and effective as valuable catalysts for more equal societies.

The '**Accessibility and Reasonable Accommodation**' seminar follows Equinet's 2013 Good Practice Guide '[Equality bodies supporting good practice on making reasonable accommodation for people with disabilities by employers and service providers](#)' and the 2014 Perspective '[Realising Rights. Equality bodies and people with disabilities. Supporting the review of the European Union Disability Strategy 2010-2020](#)'.

The seminar drew its focus from the work of equality bodies and Equinet on discrimination related to accessibility and reasonable accommodation. It aimed to:

- **Build capacity** of equality bodies' staff members in understanding, promoting and ensuring reasonable accommodation and accessibility by:
 - Facilitating the exchange of good practices
 - Initiating discussions on challenges encountered by equality bodies in this area
 - Providing equality bodies with practical advice on how to implement effectively the concepts of accessibility and reasonable accommodation
- **Update** equality bodies on recent EU and international developments related to reasonable accommodation and accessibility

SEMINAR AGENDA

EQUINET SEMINAR

Accessibility and reasonable accommodation

Monday 4th and Tuesday 5th April 2016

LOCATION: Hotel Wimberger, Neubaugürtel 34 – 36, Vienna (Austria)

BACKGROUND INFORMATION AND CONTEXT

In the last years, the issue of the advancement of reasonable accommodation and accessibility in the workplace and beyond has been high on the EU and international non-discrimination agendas.

If adopted, the **proposal of the EU Horizontal Equal Treatment Directive**¹ would complement the Framework Employment Directive by obliging the EU Member States to provide persons with disabilities with general accessibility and reasonable accommodation in areas beyond employment.

In the context of the review of the EU's performance in **implementing the UNCRPD**, the UN Committee published [its concluding observations](#). It formally recommends the EU to take effective action to ensure that persons with disabilities receive the reasonable accommodation they need, including by moving forward on the proposals of the **European Accessibility Act**² and the Horizontal Equal Treatment Directive.

The concept of reasonable accommodation is also essential for **other grounds of discrimination**. The example of accommodation of religious and cultural practices and needs in the workplace is particularly relevant in a context of rising discrimination on the grounds of religion and belief.

In light of this, the **Equinet 2013 Good Practice Guide** "[Equality bodies supporting good practice on making reasonable accommodation for people with disabilities by employers and service providers](#)" and the **2014 perspective** "[Realising Rights. Equality bodies and people with disabilities. Supporting the review of the European Union Disability Strategy 2010-2020](#)" both highlight significant challenges for equality bodies in promoting reasonable accommodation and accessibility. These reports will serve as bases for discussion at the upcoming Seminar on Reasonable Accommodation and Accessibility.

¹ [Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation](#) (2 July 2008)

² [Proposal of European Accessibility Act](#), European Commission, 2 December 2015

OPENING SESSION		
09:00 – 09:20	Opening address Evelyn Collins , Chair of the Equinet Executive Board and Chief Executive of the Equality Commission for Northern Ireland Erwin Buchinger , Austrian Disability Ombudsman	
09:20 – 10:00	Keynote address Accessibility and reasonable accommodation on the ground of disability: definitions, scope and challenges	Professor Anna Lawson , Leeds University
10:00 – 10:15	Questions & Answers	
10:15 – 10:30	Coffee Break	
SESSION 1		
Setting the Scene – Specific challenges and ways forward on accessibility and reasonable accommodation for persons with disability		
Chair: Evelyn Collins, Chair of the Equinet Executive Board and Chief Executive of the Equality Commission for Northern Ireland		
<i>This session aims to update participants on the EU and international framework for accessibility and reasonable accommodation on the ground of disability and address specific challenges in relation to these issues.</i>		
10:30 – 10:50	The EU legal and policy framework for accessibility and reasonable accommodation	Jessica Machacova , Project Officer, Equinet
10:50 – 11:10	The UNCRPD, accessibility and reasonable accommodation: implementation and challenges	Sara Brunet , Chair of ENNHRI's CRPD Working Group and Senior Lawyer, Equality and Human Rights Commission
11:10 – 11:30	Questions & Answers	
11:30 – 11:50	Coffee Break	
WORKSHOP 1		
Discussion groups: Promoting accessibility and reasonable accommodation for persons with disabilities in employment		
<i>In this first workshop session, speakers will provide equality bodies with practical advice on how to make accessibility and reasonable accommodation a reality in the workplace and how to cooperate with duty bearers.</i>		
Participants will divide in two groups and rotate after 50 minutes.		
11:50 – 13:30	Making accessibility and reasonable accommodation a reality in the workplace	Peter Noflatscher , Austrian National Council of Disabled Persons
	What must equality bodies do	Susan Scott-Parker OBE , Founder and

	and say if they are to enable disabled people to be treated fairly in the workplace?	CEO, Business Disability International
13:30 -14:30	Lunch Break	
WORKSHOP 2		
Discussion groups: Promoting accessibility and reasonable accommodation for persons with disability beyond employment		
<i>This workshop session will focus on concrete aspects of accessibility and reasonable accommodation beyond employment.</i>		
Participants will divide in two groups and rotate after 50 minutes.		
14:30 – 16:10	Accessibility and reasonable accommodation beyond employment: overview and challenges	Ignacio Sola-Barleycorn , Seconded National Expert, Equality and Citizen’s Rights Department, European Union Agency for Fundamental Rights (FRA)
	Access to goods and services: the Easy-to-Read project	Aleksandra Ivanković , Executive Director, Inclusion Europe
16:10 – 16:30	Coffee Break	
WORKSHOP 3		
Discussion groups: Equality bodies’ good practices		
Discussion in small rotating groups (one rotation after 45 minutes). Participants will attend 2 discussion groups.		
16:30 – 18:00	Cooperation with duty bearers: the case of municipalities	Facilitation: Vibeke Høge Rehfeld , Team leader, Disability, Danish Institute for Human Rights
	Accessibility, reasonable accommodation and arbitration in Austria	Facilitation: Aaron Banovics , Deputy Head of Department, Office of the Austrian Disability Ombudsman
	Information project: “Come on in – access to everyone” project	Facilitation: Liisa Pakosta , Gender Equality and Equal Treatment Commissioner, Estonia
	Raising awareness: “Every customer counts” project	Facilitation: Frank Fleming , Manager, Advice and Compliance Division, Equality Commission for Northern Ireland
18:00	End of the first day	
Evening	Social event	

SESSION 2

Reasonable accommodation beyond the ground of disability

Chair: Anna Błaszczak, Director of the Department for Equal Treatment, Commissioner for Human Rights, Poland

This session will address reasonable accommodation on other grounds than disability.

09:00 – 09:15	The ground of religion or belief and gender: issues in counselling-practice	Sandra Konstatzky , Deputy Ombud, Ombud for Equal Treatment, Austria
09:15 – 09:30	The grounds of race and ethnic origin	Joël Le Déroff , Senior Advocacy Officer, ENAR – the European Network against Racism
09:30– 09:45	The ground of age	Nena Georgantzi , Policy Officer, AGE Platform Europe
09:45 – 10:15	Questions & Answers	
10:15 – 10:30	Coffee Break	

WORKSHOP 4

Discussion groups: Reasonable accommodation beyond the ground of disability

Discussion in small rotating groups (rotation after 45 minutes). Participants will take part in 2 discussion groups.

10:30 – 12:00	The grounds of religion or belief and gender	Facilitation: Sandra Konstatzky , Deputy Ombud, Ombud for Equal Treatment, Austria
	The grounds of race and ethnic origin	Facilitation: Joël Le Déroff , Senior Advocacy Officer, ENAR – the European Network against Racism
	The ground of age	Facilitation: Nena Georgantzi , Policy Officer, AGE Platform Europe

CONCLUDING SESSION

12:00 – 12:15	Anne Gaspard , Equinet Executive Director Birgit Lanner , Head of Department, Austrian Disability Ombudsman
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SEMINAR SUMMARY

OPENING SESSION



Evelyn Collins, Equinet Chair and Chief Executive of the Equality Commission for Northern Ireland, opened the Seminar by introducing the work of Equinet and equality bodies on accessibility and reasonable accommodation. She underlined the crucial importance of these issues in achieving an equal society. She stressed the important inputs of Equinet’s **2013 Good Practice Guide** [“Equality bodies supporting good practice on making reasonable accommodation for people with disabilities by employers and service providers”](#) and the **2014 Perspective** [“Realising Rights. Equality bodies and people with disabilities. Supporting the review of the European Union Disability Strategy 2010-2020”](#). She concluded by pointing to the significant challenges and yet crucial role of equality bodies in promoting reasonable accommodation and accessibility.

Erwin Buchinger, Austrian Disability Ombudsman, addressed the participants by giving an introduction of the work of [his equality body](#). The office of the Disability Ombudsman was established ten years ago and it operates independently, yet it collaborates both with the government and civil society organisations. In the past years, improvements on accessibility and reasonable accommodation standards have been made in Austria in the field of education, public transport and buildings, while private accommodation remains a topical issue (i.e. finding accessible hotels and restaurants). Every year, the Austrian Disability Ombudsman receives

approximately 1.400 complaints of people being discriminated on the ground of disability, which are often related to the right to work and education, social security, the accessibility of goods, transport and information. The Austrian Disability Ombudsman deals with each case by providing support in claim compensations and identification of appropriate remedies, providing legal representation in separate arbitration processes (only in the field of insurance) and proposing amendments to the legislation. Finally, the Austrian Disability Ombudsman reports annually to the government and the Disability Council.

Erwin Buchinger's presentation is available [here](#).

Anna Lawson, University of Leeds, discussed the definition and scope of accessibility and reasonable accommodation, along with the challenges in their implementation. She stressed the importance of disentangling the notion of reasonable accommodation from the one of accessibility.

While both the [United Nations Convention on the Rights of People with Disabilities](#) (UNCRPD) and the [Employment Equality Directive](#) provide definitions of reasonable accommodation, accessibility has not been defined in international and European law. Following the EU's ratification of the UNCRPD, the failure to provide reasonable accommodation is a clear form of discrimination and requires immediate realization to tackle disadvantages. The duty of reasonable accommodation is further explored in the UNCRPD Committee jurisprudence, particularly in the case [Jungelin v Sweden](#), which limits the scope of reasonable accommodation.

Anna Lawson also mentioned the UNCRPD [General Comment No 2](#) which covers the notion of accessibility within the CRPD framework and calls for its progressive realisation. The Comment provides some guidance on the relationship between accessibility and discrimination, and indicates that the existence of an accessibility barrier does not necessarily amount to discrimination although there will be many situations in which it should. It focuses on removing barriers for persons with disabilities as a group rather than the singular individual.

Anna Lawson's presentation is available [here](#).

SESSION 1

Setting the Scene

Specific challenges and ways forward on accessibility and reasonable accommodation for persons with disability



Session 1 aimed to update participants on the EU and international framework for accessibility and reasonable accommodation on the ground of disability and address specific challenges in relation to these issues.

Jessica Machacova, Project Officer, Equinet focused on the current EU legal developments regarding discrimination based on disability, accessibility and reasonable accommodation. She gave an overview of EU primary and secondary law in relation to these issues. She also highlighted some of the recommendations the UNCRPD Committee made to the EU in the context of the evaluation of the implementation of the Convention in 2015. To finish, she mentioned the proposal of the [European Accessibility Act](#) which was released by the European Commission in December 2015 and the current mid-term review of the [European Disability Strategy 2010-2020](#).

Sara Brunet, Chair of ENNHRI's CRPD Working Group and Senior Lawyer, Equality and Human Rights Commission, delivered a presentation on the activities of ENNHRI's [CRPD Working Group](#) and the role of National Human Rights Institutions (NHRIs) in the implementation of the CRPD. The CRPD Working Group gathers the institutions that have been mandated with the monitoring mechanism function under Article 33.2 of the CRPD. This includes various European NHRIs, but also Equality Bodies and other institutions (i.e. FRA and the European Disability Forum). The CRPD Working Group aims at being a forum among NHRIs, equality bodies and other independent mechanisms to exchange good practices and build the capacity of its members in monitoring and promoting the CRPD. At the same time, the Working Group also aims at

functioning as a forum for its members to interact with the EC, Council of Europe and other international human rights mechanisms, including the CRPD Committee. In promoting and monitoring the implementation of the CRPD, NHRIs use strategic legal enforcement powers, raise awareness and provide practical resources for both duty bearers and rights holders, involving various stakeholders, including disabled persons' organization, governments, employers, local authorities and service providers.

Sara Brunet's presentation is available [here](#).

WORKSHOP 1

Discussion groups: Promoting accessibility and reasonable accommodation for persons with disabilities in employment

The first round of workshops was comprised of two sessions hosted by external speakers. In the workshops, participants discussed examples of **how to make accessibility and reasonable accommodation a reality in the workplace and how to cooperate with duty bearers**.

The workshops were opened by presentations by the speakers which then led to discussions on key topics.

One workshop was hosted by **Peter Noflatscher of the Austrian National Council of Disabled Persons and representative of the European Disability Forum**. During the discussion, participants agreed on the fact that accessibility and reasonable accommodation are essential for an inclusive job market. However, accessibility and safety are still major challenges for employees. The lack of standardisation has led to a diversification in the approaches taken by each EU Member State to provide adequate accessibility measures and reasonable accommodation (i.e. availability and amount of public funding). Moreover, participants also discussed the correlation between accessibility and safety measures in the work place and how this often remains a challenge and raises concerns among employees.



The second workshop was hosted by **Susan Scott-Parker OBE, Founder and CEO of Business Disability International**. It was entitled "What must equality bodies do and say if they are to enable disabled people to be treated fairly in the workplace?" The discussions focused on the need of shifting the approach to disability from a medical and social security issue to a human



rights-based approach. In particular, participants discussed the use of employment quotas in different EU Member States where, even if present, are not fully enforced by employers who tend to prefer to pay fines rather than hiring persons with disabilities. The workshop attendees also pointed out the need to take into account the employers' views to better communicate and collaborate (i.e.

the word "discrimination" is often overlooked in the private sector, where the word "fairness" is more employed and commonly understood). Equality bodies can thus play a role in raising awareness among employers, as well as governments and officials, to explain that creating an inclusive environment will be beneficial for company profits and that adjustments to the workplace are not costly if they enable the employee to better perform.

Susan Scott-Parker's presentation is available [here](#).

WORKSHOP 2

Discussion groups: Promoting accessibility and reasonable accommodation for persons with disability beyond employment

The second session of Workshops aimed to exchange knowledge and good practices among the equality bodies to promote concrete aspects of accessibility and reasonable accommodation beyond employment.

As per the previous workshop session, each workshop was opened by a presentation of the speaker and followed by discussions and exchange of information.

One workshop was hosted by **Ignacio Sola-Barleycorn, Seconded National Expert in Equality and Citizen's Rights Department at the European Union Agency for Fundamental Rights (FRA)**. He opened with a presentation



on the FRA's work on the right to political participation of persons with disabilities. During the discussions, representatives of equality bodies highlighted that their institutions have competences to combat discrimination on the ground of disability beyond employment, and that most discrimination cases tend to occur in the access to goods and services (i.e. leisure activities and education). All participants underlined the difficulties they face in bringing cases to

court due to the lack of clarity regarding the implications of accessibility and reasonable accommodation beyond employment. Discussions also highlighted examples of good practices which often involve various stakeholders, from disabled people’s organisation, companies, non-governmental organisations and municipalities, in the work that is carried out on the rights of people with disabilities.

Ignacio Sola-Barleycorn’s presentation is available [here](#).

The other workshop was hosted by **Aleksandra Ivanković, Executive Director of Inclusion Europe**. It was opened with a presentation of the “[Easy-to-Read project](#)” on access to goods and services. Participants discussed the need to develop accessibility tools in order to enable persons with intellectual disabilities to enjoy the protection provided by equality bodies. This can be achieved by providing easy to read materials,



simplifying procedures and providing legal assistance. The fact that in many countries persons with intellectual disabilities can still be placed under plenary guardianship may represent an obstacle for persons with intellectual disabilities to avail themselves of the protection, in the absence of the approval of their guardian. In order to ensure equal access to justice for all, persons with intellectual disabilities need to be provided with reasonable accommodation in order to be able to meaningfully and effectively seek protection from national equality bodies.

WORKSHOP 3

Discussion groups: Equality bodies’ good practices

The third session of workshops aimed at exchanging knowledge and good practices among equality bodies on accessibility and reasonable accommodation.

One workshop was facilitated by **Vibeke Hüge Rehfeld from the Danish Institute for Human Rights (DIHR)**, who presented the DIHR’s work in collaboration with municipalities. In general, many representatives of equality bodies discussed the challenges of collaborating with municipalities, which seems to be a common issue across EU Member States. Participants also expressed their interest in learning more about good practices and possible indicators to measure the implementation of the CRPD in municipalities with regard to cooperation with them.

Vibeke Hüge Rehfeld’s presentation is available [here](#).

The second workshop was facilitated by **Aaron Banovics from the Office of the Austrian Disability Ombudsman**. It opened with a presentation on accessibility, reasonable accommodation and arbitration in Austria, where he presented the arbitration and conciliation proceedings in Austria. Since 2006, around 1700 conciliation proceedings have been held, and 50% of them were successfully solved. A very small proportion of failed proceedings were brought to court due to financial risks. Aaron Banovics then presented concrete examples of arbitration and conciliation proceedings in relation to reasonable accommodation on the ground of disability. Participants then shared their experience regarding arbitration and conciliation proceedings and discussed the best approaches to drive social change in relation to reasonable accommodation.

Aaron Banovics' presentation is available [here](#).

The third workshop was facilitated by **Liisa Pakosta, Gender Equality and Equal Treatment Commissioner in Estonia**, who presented the project “Come on in – access to everyone.” The workshop outlined the challenges related to a voluntary accreditation scheme where employers, service providers and other actors make a self-assessment of their own accessibility. The Estonian good practice example demonstrated the power of voluntary schemes which reward duty bearers willing to make an extra effort, while simultaneously highlighting the limitations of such an approach. Discussions focused on how such a scheme could be developed further, as well as exploring whether it could be implemented in other national contexts. The project has also had a significant awareness-raising impact, as the accessibility brand has been used as a communication tool for highlighting other political issues.

Liisa Pakosta's presentation is available [here](#).

The fourth workshop was facilitated by **Frank Fleming from the Equality Commission for Northern Ireland**, who presented the project “Every customer counts”. It focused on accessibility of goods and services. Frank Fleming explained the legal framework concerning these issues in Northern Ireland. He then presented on guidance materials and recommendations developed by the Equality Commission for Northern Ireland. The discussion also focused on challenges faced when promoting accessibility of services.

Frank Fleming's presentation is available [here](#).



SESSION 2 Reasonable accommodation beyond the ground of disability

Session 2 focused on addressing reasonable accommodation beyond the ground of disability. It allowed the sharing of knowledge and best practices between equality bodies and European civil society organisations. This session was chaired by Anna Błaszczak, Director of the Department for Equal Treatment at the Commissioner for Human Rights in Poland and Board Member of Equinet.

Sandra Konstatzky, Deputy Ombud at the Office of the Ombud for Equal Treatment in Austria and Equinet Board Member presented the work of her equality body on counselling in cases of discrimination on the ground of gender and religion or belief. She highlighted the lack of provision on reasonable accommodation in Austrian equal treatment legislation. However, provisions guaranteeing accessible and adequate adjustments can be found in other legislations (i.e. labour law). For this reason, she suggested to ensure that complaints based on



discrimination are treated holistically and not simply by looking at the provisions in equality legislation.

Sandra Konstatzky's presentation is available [here](#).

Joël Le Déroff from ENAR – the European Network against Racism presented the work of his organisation in combating discrimination based on race and ethnic origin in the provision of reasonable accommodation. He stressed the need to extend the definition of reasonable accommodation to ensure it is not only understood narrowly as applicable to disability, but more universally to include other grounds of discrimination. He pointed out that many countries and private companies already have pragmatic solutions to provide reasonable accommodation on the ground of race and ethnic origin (i.e. in relation to holidays). For this reason he suggested that equality bodies could compile a toolkit of best practices at the national level and then disseminate it to other stakeholders.

Nena Georgantzi from AGE Platform Europe highlighted cases where older people could benefit from the concept of reasonable accommodation. In some cases, this is needed to cater for the changing needs of older workers, for example working on a larger screen for those with visual problems, making the work environment more accessible, or working from home or during flexible hours. Older workers may also need computer or occupational training so that they can make best use of their experience and remain competitive in the labour market. Unfortunately, there are cases when retraining is offered until a certain age and this might foster a vicious circle of long-term unemployment. Older workers, in particular women, should also receive support and paid leave to balance work and care responsibilities. In some countries this possibility only exists for those who care for children and not for older people.

Nena Georgantzi's presentation is available [here](#).

WORKSHOP 4

Discussion groups: Reasonable accommodation beyond the ground of disability

The fourth session of workshops aimed at providing a forum to deepen the discussions following the presentations in Session 2.

One workshop was hosted by **Sandra Konstatzky** and focused on the provision of reasonable accommodation on the basis of gender and religion or belief. In this workshop, participants had the possibility to exchange views and experiences in complaint-handling and counselling. In particular, discussions were focused on indirect discrimination and positive actions on duty bearers.

The second workshop was hosted by **Joël Le Déroff** and continued the discussion on reasonable accommodation and race and ethnic origin. In the first part of the workshop, participants identified obstacles to participation and factors of discrimination. Then, participants discussed a possible broader definition of reasonable accommodation, which should be inclusive, universal and proportional. Some participants expressed their concern that reasonable accommodation should not become the only response to discrimination. In particular, they flagged that although it has a capacity to solve individual situations, and to change the culture in the long term, it should not result in other policy mechanisms being abandoned. The last phase of the workshop offered some time to debate on the role of equality bodies, including contribution to policy processes and consultations, dialogue with key stakeholders, design and dissemination of guidance and methodology documents, and design and delivery of training for the above-mentioned stakeholders.

The third workshop was hosted by **Nena Georgantzi** and focused on age and reasonable accommodation. During the discussions, representatives of equality bodies underlined that in certain countries, even if the reason why an employee asks for reasonable accommodation is related to an impairment or functional limitation, they may need to prove that they are a person with disability through a medical diagnosis. This considerably limits the possibility for older people to benefit from such arrangements. Other issues discussed during the workshop included online services and additional fees for face-to-face services and housing. Whereas there is no obligation for reasonable accommodation, there are some good practices on the ground.

CLOSING SESSION

Birgit Lanner, Head of Department at the Austrian Disability Ombudsman closed the Seminar by thanking the participants of the seminar and Equinet for the organisation.

Anne Gaspard, Executive Director of Equinet Secretariat, summarized some issues raised during the presentations and workshops. She touched upon the timeliness of the seminar considering the EU's public consultation for the mid-term review of the EU Disability Strategy and the proposal of the European Accessibility Act. She reminded the participants of the crucial



role played by equality bodies in this field. She then highlighted some important developments in the work and governance of Equinet, notably regarding the upcoming conference on [equal treatment legislation](#). She finally thanked the participants of the Seminar, the speakers and addressed a particularly warm thank you to the Austrian Disability Ombudsman, which co-hosted and provided crucial support for the organization of the Seminar.

Speakers' presentations and pictures are available on the [Equinet's website](#).