

Accessibility, Reasonable Accommodation and Arbitration in Austria

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**Equinet Seminar on Accessibility and Reasonable Accommodation
4th – 5th of April, 2016: Vienna**



Austrian Disability Policy

International

Directive 2000/78/EC
EU framework on
nondiscrimination

UNCRPD
UN convention on the
rights of persons with
disabilities

National

National anti-
discrimination law
(BGStG, BEinstG)

National Action Plan
for persons with
disabilities
2012-2020
(NAP)



Implementation in Austria

- **Discrimination** on the grounds of a disability is **forbidden** in **employment** as well as **beyond employment**.
- **Lack of accessibility** or **reasonable accommodation** can lead to a **discrimination**
- However, there is no entitlement to accessibility or reasonable accommodation by the law, only financial **compensation**.
Exception: discriminating layoff
employee benefits
work conditions



Implementation in Austria

Arbitration / Conciliation Proceedings

- Provides the chance to arrive at a consensual conclusion (possibly beyond financial compensation)
- Is free and voluntary to the other party
- Arbitration does not preclude access to the court, but is a prerequisite for an eventual court hearing.
- Since 2006, about 1.700 conciliation proceedings have been held
- About 50% of these have been successfully solved
- Of those that failed, very little have been brought to court.
(financial risk)



Filing a Discrimination

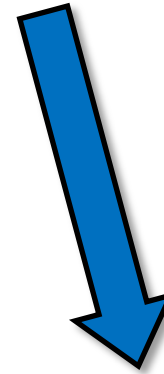
Arbitration / Conciliation Proceedings

can lead to ...



Solution

(e.g. abolishment of a claimed discrimination)



Failure –
possibility to invoke legal action
(suing for damages)



Case #1 – Accessible Marathon Race

A client wants to enter the annual Vienna City Marathon race. As he's blind, he also wants to register a guide runner to accompany him during the race.

The organizer expected the entry fee to be also paid for the guide runner...



Case #2 – Layoff during Probation Period

A client, who'd been hired as an accountant has been laid off during her one-month probation period.

The employer stated, that due to her visual appearance linked to her disability, she would not be suitable to represent the company at trade fairs...



Case #3 – Payment and Working Conditions

A client, working under physically demanding conditions, went on sick leave linked to an acquired disability more and more often.

His employer soon relocated him to other, but not less demanding duties and reduced his salary, otherwise threatening to lay him off...



Questions for Consideration

- Do you already have any experience with arbitration / conciliation proceedings in your country?
- Adversary approach vs. consensus-driven approach: Where do you see benefits and possible drawbacks?
- Which approach could better lend itself to driving social change towards an inclusive society?



**Thank You
for Your kind Attention!**

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