EQUINET
European Network
of Equality Bodies

Equinet Training on the Use of Equality Data in Non-Discrimination Legal Casework[1]
Agenda

27 October (full day) and 28 October (half day) 2022, Brussels

27 October

9:00 – 9:30	**Welcoming remarks** by Equinet. Introductions: participants and trainer, guest lecturer. Icebreaker exercise involving informal interaction (TBD). Presentation of training objectives and format (by trainer)
9:30 – 9:50	**Keynote speech**: Hon. Judge Alvina Gyulumyan, former ECtHR judge for Armenia
9:50 – 10:20	**Questions-and-answers session** with keynote speaker
10:20 – 11:00	***Coffee break***
11:00 – 11:40	**Overview of uses of equality data in litigation (*ECtHR case law*).** (Presentation of actual case examples by trainer, Q&A included.)
11:40 – 12:20	**Good/ interesting practices and challenges in the use of equality data: Equality Bodies' experiences** (panel of four EB practitioners, 7 min. each)
12:20 – 13:00	**Discussion** (plenary)
13:00 – 14:00	***Lunch***

14:00 – 15:00 **Hypothetical case study No. 1 (before the European Court of Human Rights)**: presentation of exercise by trainer and group work. Participants to split into two groups, one for the applicant before the ECtHR and one for the government.

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[1] Draft programme developed by trainer Margarita S. Ilieva.

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Case description: Pay incentives for the police to arrest: expected arbitrariness resulting in targeting of, or disproportionate impact on, minorities.

Facts: Reportedly, in the Russian Federation (RF), under the applicable rules, a police officer's annual performance review results in a salary reduction unless the officer has conducted a specified minimum number of arrests throughout the relevant period (henceforth: the rule). The rule is presumed as likely to incentivize officers to carry out unwarranted arrests. It is furthermore presumably capable of resulting in a targeting of, or a disparate impact on, minorities – ethnic/ religious, LGBT, people with mental disabilities – as victims of such arrests, i.e. in police profiling practices. As a minimum, it is expected that minorities – specifically, Chechens and other North Caucasians – are at a particular risk of arbitrary arrests stemming from the rule; if not at an actual particular disadvantage.

No information/ evidence of a correlation between the rule and minority groups being disproportionately affected by unjustified arrests is at hand.

Task for both groups: please outline equality data to be collected in order to use in support of specific arguments (formulate those too) in possible litigation against/ in defense of the state over this rule.

15:30	*Coffee served in room.*
15:00 – 16:00	**Group reports**, plenary discussion. **Detailed trainer's feedback** on participants' outcomes (comments on participants' ED-based arguments and presentation of additional ones.)

28 October

9:30 – 10:00	**Overview of uses of equality data in litigation (*CJEU case law*).** (Presentation of actual case examples by trainer, Q&A included.)
10:00 – 11:00	**Hypothetical case study No. 2 (before the Court of Justice of the European Union)**: presentation of exercise by trainer and group work.

Case description: Denial of reasonable accommodation during recruitment for a person of psychosocial disability: identification of relevant comparator within the meaning of the Framework employment Directive ([Directive 2000/78/EC](#))

Facts: W.D., a woman with a psychosocial disability, has sought employment with a private company. While eligible based on her qualifications and experience, she was denied reasonable accommodation during the selection process and was not successful. The employer provided no reason for the denial. She has brought a case before the equality body relying on information that another employee with mobility impairments retained by the respondent company had previously received reasonable accommodation when he acquired a disability as a result of an accident at work. The employer disclosed no information on the specifics of this reasonable accommodation. The equality body, referring to some of the global and European equality data below, has found that W.D.'s deprivation of reasonable accommodation is a form of direct discrimination

In the context of judicial review of this decision, the national court has made a preliminary reference to the CJEU, asking about the interpretation of the Framework Directive. In particular, the court has questioned whether the Directive should be interpreted in the sense that 'in a comparable situation' covers an employee who has acquired a physical disability due to a workplace accident as a comparator for a job applicant with a mental disability who was denied access to reasonable accommodation during the hiring process.

In responding, the CJEU has outlined the factual issues to be decided by the national court, indicating the relevance of ED for the determination of some of those.

Task for both groups: The participants are asked to act as the CJEU judges and propose a list of relevant factors that can help the domestic court to evaluate the employment situation of persons with psychosocial disabilities as compared to other relevant groups. As part of the assignment, it is left to the participants to identify the comparator groups. Participants are then asked to identify sources of ED to enable this evaluation. Both groups work on the same task and compare results during the reporting-back session.

11:00 – 11:30   **Group reports**, plenary discussion

11:30 – 12:00	***Coffee break***
12:00 – 12:30	**Detailed trainer's feedback on outcomes of Hypo No. 2**. (Comments on participants' ED-based arguments and presentation of additional ones.)
12:30 – 13:30	**Brainstorming on solutions/ initiatives for Equinet and for individual EBs** in terms of ED use in legal cases (plenary, facilitated by trainer).
13:30 – 14:00	Close of programme. Goodbyes.