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AN EQUINET  
PERSPECTIVE

# A GROWING AGENDA: THE WORK OF EQUALITY BODIES ON THE GROUND OF RELIGION OR BELIEF

 Equinet  
European network  
of equality bodies

*A Growing Agenda: The Work of Equality Bodies on the Ground of Religion or Belief* is published by Equinet, the European Network of Equality Bodies.

**Equinet** brings together 45 organisations from 33 European countries which are empowered to counteract discrimination as national equality bodies across the range of grounds including age, disability, gender, race or ethnic origin, religion or belief, and sexual orientation. Equinet works to enable national equality bodies to achieve and exercise their full potential by sustaining and developing a network and a platform at European level.

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Equinet Secretariat | Rue Royale 138 | 1000 Brussels | Belgium  
info@equineteurope.org | www.equineteurope.org  
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Author: Niall Crowley  
Publication Coordination: Tamás Kádár  
Editing: Sarah Cooke O’Dowd



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## EXECUTIVE SUMMARY

This *perspective* aims to explore and communicate the strategic approaches developed by equality bodies on the ground of religion or belief; the body of work carried out on the ground of religion or belief; and the implications and learning from this work. It is based on a roundtable discussion of the Policy Formation Working Group and a survey of Equinet members about their work on the ground of religion or belief. Twenty equality bodies in eighteen different countries responded to the survey<sup>1</sup>.

Fourteen equality bodies identified that they operate in a context of a single dominant religion that continues to have influence. This is seen as contributing, in particular, to perceptions of religious homogeneity; a labeling and stereotyping of minority religions; discrimination and disadvantage for minority religions and those of no religion; and religious organisations playing an influential role in the public sphere.

Six equality bodies reported a largely secular context, including a context of laicism in one instance. This is seen as contributing to disadvantage in the workplace and in education for those who want to practice their religion; hostility to religions; and limited potential to adapt to the needs of religious practice. None of the equality bodies reported working in a context of multiple religions all sharing some equal influence, although this context was noted in the discussion.

The ground of religion or belief is growing in importance in the work of equality bodies. This is seen as principally due to a growing number of discrimination complaints and requests for guidance on this ground, but also due to the changing composition of societies with migration, the growing presence of minority religions, and the increasing hostility of public discourse. Many equality bodies have yet to accord significant priority to this ground due to lack of resources, the low number of complaints and under-reporting, and the limited nature and range of scientific debate and work on this ground.

Most equality bodies identify combating and eliminating discrimination as the key focus for their work on this ground. In going beyond this ambition, the core concept underpinning the strategy of most equality bodies is one of seeking a reasonable accommodation of religious diversity. This builds on the work developed by equality bodies on the ground of disability and extends it to the ground of religion or belief.

All equality bodies reported some legal work on the ground of religion or belief. Casework addresses issues in relation to accommodating religious symbols and religious customs, usually in the workplace, but also in relation to accessing services, in education, and in the provision of ID cards; issues in education in

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<sup>1</sup> Austria, Belgium, Croatia, Czech Republic, Denmark, France, Germany, Great Britain, Greece, Ireland, Latvia, Malta, Northern Ireland, Poland, Portugal (2), Romania, Serbia, Slovak Republic, Sweden.

relation to access to schools, teaching of religious education in schools, accommodating religious symbols and religious customs in schools; and issues in employment including job refusal, promotion, dismissal, and job requirements, with a particular focus on institutions of a religious ethos.

Harassment, internet and media speech, access to a hospital for a minister of a particular religion, police action, access to housing, purchase and disposal of property, letting of premises, conscientious objection to military service, registration of religions, taxation of religious bodies, and targeting Muslims under anti-terror laws were also identified in casework.

Data on casework for many equality bodies does not distinguish between religion or belief. Few equality bodies specified casework on the ground of belief.

Most equality bodies include the ground of religion or belief along with all other grounds in their work on promotion of good equality practice, communication and research in a horizontal approach. A number of equality bodies identified a wide range of specific actions on the ground of religion or belief in their work.

Particular barriers in taking action on the ground of religion or belief included the sensitivities and political concerns surrounding the ground, stereotypes based on religion, limited employer understanding of the ground, lack of clear definitions of the ground, reluctance on the part of religious organisations to engage with the equality body, and a lack of relevant data.

While there are exceptions, the lack of engagement between equality bodies and representatives of religious communities is notable. Developing networks that reflect shared issues of concern on this ground at a strategic level, beyond the concerns of individual groups, was identified as difficult. This contrasts with the work being done by equality bodies with civil society on most other grounds. It limits the channels of communication for equality bodies in relation to this ground and does little to address issues of under-reporting.

Gender, racial or ethnic origin, and age were the grounds most often found to intersect with the ground of religion or belief. Socio-economic status was also identified. Gender, gender identity, and sexual orientation are the grounds reported as being in tension with the ground.

The ground of religion or belief is coming more to the forefront for equality bodies as they observe increasing tensions around the ground and growing difficulties experienced by minority religions. The good practice examples in this *perspective* could further enable equality bodies to gear up to taking on this challenge in a strategic manner. It would be particularly valuable to increase the level of casework on the ground to address issues of under-reporting and to bring clarity to the provisions on this ground.

There are now a significant number of equality bodies that have expanded the horizontal approach to include both joined-up multi-ground work and single-ground work. It is clear that joined-up work alone is not sufficient to respond to the specificity and complexity of the ground of religion or belief.

There is a body of work to draw from in this *perspective* in expanding the horizontal approach deployed by most equality bodies to this ground by

including specific actions on the ground of religion or belief and taking on initiatives responding to groups at the intersections with this ground.

**There is a need for more clarity and agreement on the definition of belief.** Some equality bodies are developing fruitful action on the ground of belief. This will need further examination, dissemination and development if the full potential in the ground of religion or belief is to be realised.

There remain issues in the manner in which the ground of religion or belief is addressed in equal treatment legislation:

- The absence of a definition of religion or belief;
- The lack of a requirement on employers and service providers to make reasonable accommodation on the ground of religion or belief;
- Religious ethos related exemptions that have been used to discriminate on other grounds, despite being prohibited in the EU Directives;
- The limited scope where EU legislation does not include a prohibition on discrimination in the provision of goods and services on the ground of religion or belief.

**The EU Directives do not require the establishment of an equality body with a mandate including religion or belief. This needs to be rectified along with the development and implementation of ambitious standards for the independence and effectiveness of equality bodies.**

The European Commission has, in recent years, advanced valuable initiatives at a European level and across the Member States on the ground of religion or belief. This is vital in establishing some priority for work on this ground and in mobilising the full range of stakeholders required for this work to be effective. It would be valuable for this commitment to continue and further develop. In this regard the European Commission Fundamental Rights Colloquium on “Tolerance and Respect: Preventing and combating anti-Semitic and anti-Muslim hatred in Europe” in October 2015 is a welcome step.

# 1. INTRODUCTION

The European Union Directive 2000/78/EC prohibits direct and indirect discrimination, harassment, an instruction to discriminate and victimisation on the ground of religion or belief. It allows action to achieve full equality in practice on this ground in the areas covered. The Directive covers employment, occupation and vocational training. The Directive contains some exemptions for institutions that work to a religious ethos. Many Member States have equal treatment legislation that also prohibits discrimination on the ground of religion or belief in the field of goods and services.

Work on the ground of religion or belief by equality bodies is still under-developed. This is true of many other stakeholders in the field of equality and non-discrimination. While there are cases pending, there are, for example, no judgments delivered on this ground by the CJEU. The ground of religion or belief is seen by equality bodies to be different to the other grounds they are working on and it can often be simpler to take positions in relation to other grounds. However, this is a time of change in relation to religious diversity and religiosity in many Member States. The ground of religion or belief is increasingly coming to the attention of equality bodies. Their response to this holds valuable learning for action on this ground by other equality bodies and other stakeholders.

Equinet is the European network of equality bodies with a membership of forty two equality bodies from thirty two European countries. Equinet works to enable equality bodies to achieve their full potential by developing staff skills within equality bodies, enabling peer learning between equality bodies, supporting the strategic capacity of equality bodies, and identifying and communicating the learning from their work to policy makers.

Equinet publishes *perspectives* to inform policy development within the European institutions and at Member State level and to support the work of equality bodies. These *perspectives* draw from the work and experience of the equality bodies.

This *perspective* explores the work of equality bodies on the ground of religion or belief and seeks to establish and communicate the learning from this work and experience.

This *perspective* aims to:

- Explore and communicate the strategic approaches developed by the equality bodies on the ground of religion or belief.
- Identify and communicate the body of work carried out on the ground of religion or belief by the diversity of equality bodies across Europe.
- Identify any implications in the learning from this work and present suggestions for the further development of this work by equality bodies.

There is an experience of increased hostility to religious diversity and to minority religions across Europe. Members of majority religions also claim discrimination in a context where dominant religions are challenged and secularism increases. Discrimination, harassment and hate speech overall are more common on the ground of religion or belief. It is timely to explore the work

of equality bodies on this ground under the equal treatment legislation and to extract learning that can be used in further developing this work by equality bodies and other stakeholders.

The preparation of this *perspective* began with a debate at a meeting of the Policy Formation Working Group of Equinet. This debate explored the purpose of the *perspective*, the work of the equality bodies on the ground of religion or belief, and the issues that should be explored in the *perspective*.

The key input for this *perspective* was a survey of Equinet members to explore the following areas of their work on the ground of religion or belief:

- Legal work (dealing with enquiries and providing legal support or deciding cases);
- Promotion work in supporting good practice (guidance and support to employers and service providers to implement good practice to promote equality and combat discrimination);
- Research work (conducting or commissioning surveys or research projects);
- Communication work (informing people who experience discrimination and building a culture of rights).

The survey was conducted in June/July 2015. Twenty equality bodies, members of Equinet in eighteen different countries, responded to the survey<sup>2</sup>. The survey explored the context of religious diversity the bodies were working in, the strategy they were using in their work on the ground of religion or belief, and the actions that they were taking on this ground.

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<sup>2</sup> Austria, Belgium, Croatia, Czech Republic, Denmark, France, Germany, Great Britain, Greece, Ireland, Latvia, Malta, Northern Ireland, Poland, Portugal (2), Romania, Serbia, Slovak Republic, Sweden.



## 2. CONTEXT

Context is important for the work of equality bodies on the ground of religion or belief. It influences what equality bodies might seek to achieve on this ground and what they might be able to achieve on this ground. The place of religion in society, change in religious diversity, and conflict around religious diversity are noted as key elements of this context by equality bodies.

The equality bodies presented three scenarios for the place of religion in society. This is a subjective analysis and the boundaries between the different scenarios can be fluid. However, it offers a sense of context as perceived by equality bodies:

1. One single major religion is dominant. This scenario can be evident in membership numbers where the majority of the population adheres to one particular church. It can be evident in the level of political support for or interaction with a particular church. It can be further underlined in the nature of the relationship between state and church. This relationship can encompass the influence of the church on the state and state funding for the church. It can be evident in control of the church over key institutions, in particular education and welfare provision. This scenario can result in issues where the influence and position of the dominant church leads to complaints and is subject to challenge. Discrimination against non-believers and against members of minority religions can be at issue.
2. There is more than one major religion present, all sharing some influence. This can be evident in a large number of believers or members for a number of different religions and a position of political influence enjoyed by all of these major religions as a result. There can also be minority religions present that hold little or no influence in this context.
3. A secular perspective is dominant. Different ways of being secular are noted. There is the laicity of France that involves a separation of church and state, a prohibition of visible symbols of religion in schools and the public sector, and an ideological attachment to this perspective. There is a situation of predominance of atheists and almost no religion. The state is neutral with regard to religion and all religions are minorities. There is an emerging secularism where there was a state church in the past but there has been a partial separation between church and state. This is characterised by neutrality, with the state collecting fees for churches and being involved in the distribution of this finance.

Equality bodies identified that the context in relation to religion is characterised by change:

- Religious diversity is growing due to immigration. New churches emerge and/or the balance of membership numbers shifts between churches.
- There is a decrease in the practice of religion. The power of the dominant church can decline as a result.
- The dominant position of a single church is increasingly challenged. There can be a popular dissatisfaction with the dominant church due to its actions or response to particular issues. NGOs can challenge the presence of the dominant church in various institutions. The state can begin to

progress certain issues despite this being contested by the dominant religion.

Religion has been a source of conflict in a number of Member States. Inter-religious conflict is one part of this. Northern Ireland presents a particularly acute example of this. Disadvantaging and discriminating against minority religions can be another part. This can lead to particular roles for equality bodies in responding to exclusion and harassment and in offering a space for engagement by different stakeholders.

Religion has become a focus for security issues and anti-terrorism action in some Member States. This can result in a sidelining of equality bodies from issues of religion. The issue of religion gets moved to those areas of the state where equality bodies have no mandate to act. It gets divorced from a concern for rights. This makes religion or belief a particularly important ground but it also differentiates it from other grounds addressed by equality bodies.

Fourteen of the equality bodies responding to the survey identify that they operate in a context where there is a single dominant religion that continues to have influence<sup>3</sup>. Their experience demonstrates a range of issues that can emerge from such a context:

- Perceptions of religious homogeneity abound with an invisibility for minority religions.
- Minority religions can experience labeling and stereotyping.
- Members of minority religions are at risk of discrimination and disadvantage and the dominance of one religion is seen to provide grounds for discrimination.
- Those of no religion are at risk of discrimination and disadvantage.
- Issues of legal recognition emerge for minority religions with consequent disadvantages.
- Religion and religious organisations play a significant and influential role in the public sphere and in education and welfare provision.
- Church teaching influences policy in the sphere of the family and marriage, even where the state takes a secular or neutral standing.

Northern Ireland reported a very specific context with the dominance of Christianity alongside a significant division between Protestant and Roman Catholic groups.

In four of these instances the equality bodies reported that, while there is a single dominant religion, the practice of religion is declining. This is often accompanied by the emergence of new religions as a result of migration patterns<sup>4</sup>. In most cases migration patterns are found to build the presence of Islam. Muslims can become a particular focus for discrimination. This can intersect with hostility to migration and to minority ethnic groups.

Six equality bodies reported a largely secular context<sup>5</sup>. Denmark is identified as having a single dominant religion, while a secular perspective predominates.

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<sup>3</sup> Austria, Croatia, Germany, Great Britain, Greece, Ireland, Latvia, Northern Ireland, Portugal, Poland, Romania, Serbia, Slovak Republic.

<sup>4</sup> Austria, Germany, Great Britain, Ireland.

<sup>5</sup> Belgium, Denmark, Czech Republic, France, Malta, Sweden.

Belgium too has a single dominant religion but practice is declining, the influence of the church is decreasing, and the state operates to a neutral perspective. A secular perspective is dominant in the Czech Republic. A secular norm is identified in Sweden. This secularism can lead to disadvantage in the workplace and in education for those who want to practice their religion. France stands out as holding a dominant secular perspective in terms of laicism. This can lead to hostility to religions and limit potential to adapt to the needs of religious practice. In Malta the practise of religion remains high but government is increasingly taking a secular position. None of the equality bodies responding to the survey reported working in a context of multiple religions all sharing some influence.

The ground of religion or belief is, predominantly, undefined in equal treatment legislation<sup>6</sup>. Definitions related to religion have emerged in case law. Article 9 of the European Convention of Human Rights addresses freedom of thought, conscience and religion. Much of the jurisprudence under this article concerns religious beliefs. This clarifies that non-belief as well as non-religious belief are protected. While religious freedom is primarily a matter of individual conscience it also implies freedom to manifest one's religion. While there is no definite interpretation of what is meant by religion, the case law demonstrates that what may be considered 'mainstream' religions are readily included, older faiths such as Druidism also qualify as do more recent religious movements such as Jehovah's Witnesses, Scientology, the Moon Sect and the Divine Light Zentrum<sup>7</sup>.

The boundaries of the ground of religion can be unclear in relation to some groups. In some jurisdictions a register of religions gives clarity on this. However, such registers have also been a source of controversy as well for being too narrowly drawn and excluding particular groups in some jurisdictions.

The explanatory notes to the Austrian law define religion in terms of confession, regulations for life, and rituals. It must have a transcendental aim and origin, be it a personal essence (god or gods) or an impersonal essence (world law, realisation) showing the way to salvation. In Serbia, religious discrimination is defined as 'conduct contrary to the conduct of free expression of religion or beliefs or if an individual or a group of persons is denied the right to acquire, maintain, express and change religion or beliefs, or the right to express, be it publicly or privately, or act in accordance with his/her beliefs'.

There is usually no definition of belief in the legislation. There is pressure in some jurisdictions to push a wide range of issues under the heading of belief. Belief does not emerge as presenting issues of concern in the work of many equality bodies. It is seen as a difficult concept with contradictory interpretations from case law, and in need of definition.

Belief is defined, but only in explanatory notes, in Austrian law in terms of including all religious, ideological, political, and other main or general concepts to explain the world. It must be a comprehensive concept rather than a singular statement. It has usefully been interpreted to include membership of a political

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<sup>6</sup> Austria, Belgium, Croatia, Czech Republic, Denmark, France, Germany, Greece, Great Britain, Ireland, Malta, Portugal, Poland, Romania, Serbia, Slovak Republic, Sweden.

<sup>7</sup> Murdoch J., Freedom of Thought, Conscience and Religion, Human Rights Handbook No. 9, Council of Europe, 2007 - [http://www.echr.coe.int/LibraryDocs/DG2/HRHAND/DG2-EN-HRHAND-09\(2007\).pdf](http://www.echr.coe.int/LibraryDocs/DG2/HRHAND/DG2-EN-HRHAND-09(2007).pdf)

party because this is an issue in the making of public appointments. It has been interpreted and used similarly in Romania.

The legislation in the Czech republic covers religion, belief or world opinion/belief. In the absence of an interpretation by the Courts, the Czech Defender of Public Rights has defined world opinion/belief in terms of a set of ideas, opinions, and values concerning the most fundamental philosophical, ethical, political, social and religious issues. Issues of home births, vegetarianism, veganism, and compulsory vaccinations have been raised under this category in education, health care and service provision settings.

The wearing and use of religious symbols and the demand to accommodate religious practices emerge as issues of concern in the work of seven equality bodies<sup>8</sup>. These issues are predominantly associated with Muslim communities. The Muslim headscarf is referenced frequently in the survey responses as being at issue in cases of discrimination and in public discourse.

The educational sphere is highlighted by nine equality bodies as an arena where issues of religion are of concern<sup>9</sup>. The issues include:

- Access to schools for people from particular religions and of no religion.
- Teaching and practice of religion in schools.
- The interaction between religion and school ceremonies.
- The right to opt out of certain school activities on religious grounds.
- Faith schools.

The workplace is identified as another key arena by five equality bodies where religious issues are a focus for concern<sup>10</sup>. The wearing of religious symbols or the prevalence of the symbols of the dominant religion, limited adapting to allow for religious practices, job requirements that run counter to religious practices and beliefs are identified as issues of concern. Employment in organisations run by or on behalf of religious bodies is a particular source for these issues.

Six equality bodies identify hostile public discourse and abuse in relation to religious minorities, particularly linked to migration, as an issue<sup>11</sup>. This is growing in some instances. Islamophobia and anti-Semitism predominate.

Other issues of concern in relation to religion or belief that are identified in the survey include:

- The position and influence of the dominant religion in the public sphere.
- State holidays that reflect the dominant religion.
- Legal recognition of minority religions and equal access to religious institutions and organisations.
- Construction of places of worship by minority religions.
- Prohibition on traditional ritual slaughter practices.
- The inadequate response to religious diversity in care settings and in prisons.

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<sup>8</sup> Austria, Belgium, France, Germany, Great Britain, Malta, Sweden.

<sup>9</sup> Austria, Belgium, Croatia, Greece, Great Britain, Ireland, Poland, Romania, Sweden.

<sup>10</sup> Austria, Belgium, Ireland, Malta, Sweden.

<sup>11</sup> Czech Republic, Germany, Malta, Northern Ireland, Poland, Sweden.

- Failure to make restitution for all religious properties confiscated by previous regimes.
- Negative discourse on the internet.
- Issues of religious conscience, particularly for health professionals in relation to abortion but also in the area of military conscription.
- Inter-community sectarian tensions.
- Neutrality of the public sector and of the state.

Three equality bodies identify the absence of, or limited evidence of, issues in relation to the ground of religion or belief in the public sphere<sup>12</sup>.

## **LEGAL**

### **The expert opinion of the Slovak National Centre for Human Rights on the rights of vegetarian children and pupils**

In 2013, Slovak National Centre for Human Rights issued an expert opinion concerning the alleged discrimination and human rights violation of vegetarian children and pupils when accessing food in school canteens and canteens in pre-school facilities. The opinion was issued upon individual request with regards to an initiative and meetings of experts, parents and other interested persons in the nutrition of children of vegetarian parents in schools and pre-school facilities.

The expert opinion raised two aspects. The first aspect concerned human rights as it alleged that national legislation and practice were incompatible with WHO recommendations and violated freedom of thought, conscience and belief and the right to protection of personal life. The opinion evaluated the legal nature and content of relevant WHO recommendations.

The opinion was also based on the Decision of the ECtHR in case *Kobida v. Slovakia* (Application No. 39507/06) which states that neither Article 8 ECHR nor any other article covers the right to provision of vegetarian food.

The opinion also took into account that children and pupils are not obliged to eat in schools or pre-school facilities and in many cases they can bring their own food.

It was recommended that the representatives of the initiative consider approaching founders of school food facilities to negotiate a modification of practices. It was recommended they address the Ministry of Education, Science, Research and Sport of the Slovak Republic requesting change of the relevant legislation (Regulation of the Ministry on School Food Facilities).

The second aspect concerned equal treatment of vegetarian children and pupils in accessing meals offered in school canteens and canteens of pre-school facilities. The School Act recognizes the right of the child to respect of his/her religion, belief, nationality and ethnic origin. The Regulation of the Ministry of Education No. 330/2009 on School Food Facilities may however in practice indirectly discriminate vegetarian children on the ground of their belief not to eat meat and meat products. As a result of national legislation these children are not able to access food services in school and pre-school food facilities that are

<sup>12</sup> Latvia, Portugal, Slovak Republic.

publicly available to all children and pupils.

It was concluded that the legislation is capable of indirectly discriminating against a group of children on the ground of their belief or affiliation. It was recommended to consider addressing mandated stakeholders to consider applying to the Constitutional Court to assess its compatibility with the Constitution, Constitutional Acts and ratified international treaties or to consider filing an individual complaint on the breach of fundamental rights and freedoms (the right to protection from discrimination).

The expert opinion served as background material for a meeting of experts and other persons interested in vegetarian nutrition in schools and pre-school facilities and published on the equality body website.

### 3. STRATEGY

Six equality bodies identify the ground of religion or belief as having a high and significant priority in their work<sup>13</sup>. This mainly reflects an experience of a high and growing level of casework on this ground; growing hostility in public discourse towards some religious minorities; and a perceived lack of understanding by employers and service providers of this ground and a sense, that in a context of tension, equality bodies can make a particular contribution as expert bodies.

The equality body in Sweden has specifically identified discrimination against Muslims and people perceived to be Muslims as a priority. The equality body in Northern Ireland has a key role in monitoring positive duties on employers who, under fair employment legislation, are required to register with the equality body, send annual monitoring reports on their employment of people from the Protestant and Roman Catholic communities, take action to regularly review their employment practices, and, where necessary, take affirmative action to address under-representation.

Most equality bodies identify the ground of religion or belief as holding a middle level priority in their work<sup>14</sup>. This is a reflection of a dominant concern not to have a hierarchy between the grounds covered under equality legislation. The equality body in Germany is one of these. However, it has decided that religion or belief will be its high profile focus in 2016. Each year the equality body identifies a single ground for specific focus.

Six equality bodies noted that the ground of religion or belief held a low priority in their work<sup>15</sup>. It is important to emphasise that this is not by decision of the equality body but reflected low levels of casework on this ground, low levels of religious diversity in some jurisdictions, and a limited presence of the issue in public discourse.

The equality bodies identify a range of factors that are pushing the ground of religion or belief into a higher profile in their work:

- Discrimination becoming increasingly apparent, a growing number of complaints and requests for guidance on this ground<sup>16</sup>.
- The changing composition of societies with migration and the growing presence of minority religions<sup>17</sup>.
- Increasing hostility of public discourse<sup>18</sup>.
- Having a specific strategy for the ground of religion or belief<sup>19</sup>. This particular instance involves a strategy that draws on existing research, dialogue events with stakeholders, and a public call for evidence in relation to discrimination on the ground of religion or belief.

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<sup>13</sup> Austria, Belgium, Czech Republic, Great Britain, Northern Ireland, Sweden.

<sup>14</sup> Croatia, France, Germany, Greece, Malta, Portugal, Romania.

<sup>15</sup> Denmark, Ireland, Latvia, Poland, Serbia, Slovak Republic.

<sup>16</sup> Belgium, Greece, Great Britain, Sweden.

<sup>17</sup> Sweden.

<sup>18</sup> Czech Republic, Malta.

<sup>19</sup> Great Britain.

- Positive duties in equal treatment legislation on employers in relation to the ground of religion or belief<sup>20</sup>.

The equality bodies also identify a range of factors that are limiting their focus on the ground of religion or belief. Resources and the lack of resources are at issue for all equality bodies. Further barriers named include:

- The low number of complaints and under-reporting<sup>21</sup>.
- The lack of court decisions on this ground<sup>22</sup>.
- The limited nature and range of scientific debate and work on this ground<sup>23</sup>.
- The difficulty to get consensus on issues and to develop networks that reflect shared issues of concern at a strategic level beyond the concerns of individual groups<sup>24</sup>.
- The difficulty to get employers and service providers to invest resources to develop their practice in this area<sup>25</sup>. Backlash is evident in some jurisdictions on foot of casework.
- This ground is sensitive, surrounded by political concerns, and subjective (without objective standards to implement and monitor)<sup>26</sup>.
- The lack of possible partners to work with on this issue<sup>27</sup>.
- Continuing sectarian divisions within the community<sup>28</sup>.

Equality bodies are less clear as to what they are seeking to achieve on this ground compared to other grounds. It was suggested that there can be divisions within some equality bodies as to how to respond to religious diversity in the most appropriate manner.

Most equality bodies identify combating and eliminating discrimination as the key focus for their work on the ground of religion or belief. The equality body in Germany emphasises a focus on systems in this work and the need to eliminate institutional discrimination.

The core concept underpinning the strategy of most equality bodies is one of seeking a reasonable accommodation of religious diversity. This builds on the work developed by equality bodies on the ground of disability and extends it to the ground of religion or belief, with the disadvantage that reasonable accommodation on the ground of religion or belief is not an explicit requirement of equal treatment legislation. This approach still seeks a flexibility from employers and services providers to take account of the practical implications of religious diversity and to ensure that their practices do not turn a person's religion into barriers to access that disadvantages them. It seeks particular adjustments in education settings to take account of religious diversity. This focus on diversity can also encompass a concern about the stereotyping of religious minorities.

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<sup>20</sup> Northern Ireland.

<sup>21</sup> Croatia, Czech Republic, Denmark, Greece, Latvia, Malta, Serbia, Slovak Republic.

<sup>22</sup> Austria.

<sup>23</sup> Austria.

<sup>24</sup> Ireland

<sup>25</sup> Great Britain.

<sup>26</sup> Belgium, Croatia, Germany, Romania.

<sup>27</sup> Romania.

<sup>28</sup> Northern Ireland.



The equality body in Belgium has researched and developed a very particular approach to responding to religious diversity. This is called “Highest Common Denominator”. This approach emphasises similarities rather than differences of a religious, cultural or community nature. It seeks to ensure a solution to individual requests for diversity to be accommodated on condition that it benefits all interested parties. This approach seeks to step outside the box of republican universalism versus particular forms of multi-culturalism and is seen as a shift away from reasonable accommodation with its focus on the fundamental rights of the individual and particularistic answers that exacerbate difference and attribution of identity.

The equality body in Malta identifies the goal of de facto equality as informing their work on the ground of religion or belief. This is understood as encompassing the elimination of discrimination, the accommodation of religious diversity, and promoting equality. Equality mainstreaming is identified as a core strategy in this regard. This is pursued on a multi-ground basis.

The equality body in Northern Ireland identifies the goal of combating discrimination and promoting equality of opportunity with a specific focus on fair representation of Protestants and Roman Catholics in the workforce. This includes a focus on historic and institutional barriers which prevent people achieving their full potential.

The equality body in Portugal identifies a positive societal context for religious diversity and its goal is to sustain this. This goal is defined as maintaining the context of peace, harmony and close dialogue between religions.

The equality body in Sweden identifies social change as its objective. Its theory of change involves five strategic areas: the law; stakeholders; civil society; discriminatory structures; and the internal work of the equality body. The equality body seeks to affect the development of society in the desired directions by goal oriented and coordinated work in these areas. A primary focus is combating discrimination. A dialogue with Muslim organisations has been opened up on equality, rights and their implementation.

The equality body in Great Britain was the only body to identify that it was working to a specific strategy in relation to the ground of religion or belief. This is titled “Shared Understandings on Religion or Belief” and was published in 2013. This strategy has three aims:

- Improve understanding and practice by employers in managing religious diversity in the workplace and balancing the right to hold and manifest a religion or belief and the right to express an opinion with other rights and freedoms.
- Create a more balanced and reasonable public dialogue on religion or belief issues.
- Assess the existing legal framework on religion or belief, equality and human rights and whether the law offers sufficient protection for people with a religious or other belief.

## RESEARCH

### **Religious and Cultural Diversity in Belgium: finding the highest common denominator – Research by the Interfederal Centre for Equal Opportunities**

The integration of differences should be an exercise in social and political judgment that falls within the scope of common sense and reason. Unfortunately, it often leads to an increase in strong feelings and contradictions, with the result that such actions are often implemented either anonymously through the goodwill of, for example, an employer, or are imposed (often against someone's will) through legal constraints.

Over the past few years in Belgium, social workers, leaders of associations and trade unions, and human resources managers in the private and public sectors have been faced with employees, customers or clients requesting special accommodation for their religious beliefs. This emerging emphasis on religious identity could be a result of the weakening socioeconomic context and changing family dynamics.

The equality body participated in research that was carried out by the Centre Bruxellois d'Action Interculturelle for a year and a half with a diverse group of participants. The results of this research are based on the concept of the 'highest common denominator' (HCD), which emphasises similarities rather than differences, be they religious, cultural, or community-based. In this way, the HCD ensures a solution to the individual request on the condition that it benefits all interested parties.

The approach developed through this research suggests dealing with requests for accommodation within a collective framework. Only through discussion between the employer and all the employees is it possible to assess, on a case-by-case basis, the workplace context and the feasibility of the request, as well as the management of time, space, the organisation of teams, etc. Based on negotiation and consultation, the approach helps stakeholders rethink the overall structure by identifying the elements that link individuals and unite everyone's interests.

This approach lies at the opposite end of the spectrum from the recognition of a right to 'reasonable accommodation', which, based on the application of individual fundamental rights, offers individual and particularistic answers to requests linked to religious beliefs that are likely to lead to the exacerbation of differences and even the attribution of identities. This approach does not deny the interests of a minority group, but it does emphasize reaching a practical consensus 'by stepping outside the box' in order to overcome the ideological divide that pitches the supporters of a republican universalism against those who defend a certain idea of multiculturalism.<sup>29</sup>

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<sup>29</sup> The results of this research are detailed in : BOUZAR, D. and DENIES N. (2014) *Diversité convictionnelle. Comment l'appréhender? Comment la gérer?*, Editions Academia L'Harmattan, Louvain-la-Neuve

## 4. ACTIONS

The particular nature of the ground of religion or belief and the specific challenges associated with it has limited the action taken by equality bodies in this field. The lack of protection from discrimination on the ground of religion or belief in the field of goods and services is cited as one further particular barrier to taking action for some equality bodies.

The mandate of equality bodies influences their actions and the issues they might pursue on the ground of religion or belief. The mandate of most equality bodies covers both employment and the provision of goods and services. In Austria, Denmark, Greece and Poland the mandate only covers employment and vocational training. In Malta the mandate only covers employment, education and financial institutions. The mandate of most equality bodies covers the public and the private sector. In Greece and Poland the mandate only covers the public sector and in Austria and Germany only the private sector.

### 4.1 LEGAL

All equality bodies reported some legal work on the ground of religion or belief. For some, this was their principle intervention on the ground. In eight instances this was at a low level. Eleven equality bodies reported significant levels of casework on this ground<sup>30</sup>. In six of these instances, this casework has been growing in recent years<sup>31</sup>.

Core issues in casework are:

- Accommodating religious symbols and religious customs, usually in the workplace, but also in relation to accessing services, in education, and in the provision of ID cards. This area of work was reported by eleven equality bodies<sup>32</sup>. These issues interact with the other two main areas for casework and form the basis of much of the legal work of equality bodies.
- Education in relation to access to schools, teaching of religious education in schools, accommodating religious symbols and customs in schools. This area of work was reported by eight equality bodies<sup>33</sup>.
- Employment including job refusal, promotion, dismissal, and job requirements, with a particular focus on institutions of a religious ethos. Muslim complainants, in particular women, appear to be the most numerous. Accommodations sought by complainants included wearing the headscarf, religious worship at work, dealing with the requirements of Ramadan, and food regulations. This area of casework was reported by ten equality bodies<sup>34</sup>.

Harassment, internet and media speech, access to a hospital for a minister of a particular religion, police action, access to housing, purchase and disposal of property, letting premises, conscientious objection to military service,

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<sup>30</sup> Austria, Belgium, Croatia, Czech Republic, France, Germany, Greece, Ireland, Northern Ireland, Poland, Sweden.

<sup>31</sup> Belgium, Czech Republic, France, Germany, Greece, Ireland.

<sup>32</sup> Austria, Belgium, Croatia, Czech Republic, Denmark, France, Germany, Ireland, Malta, Serbia, Sweden.

<sup>33</sup> Belgium, Croatia, France, Germany, Ireland, Poland, Serbia, Sweden.

<sup>34</sup> Austria, Belgium, Croatia, Denmark, France, Germany, Ireland, Malta, Serbia, Sweden.

registration of religions, taxation of religious bodies, and targeting Muslims under anti-terror laws were also identified in casework.

Data on casework for many equality bodies does not distinguish between religion or belief. Few equality bodies specified casework on the ground of belief.

Austria, Czech Republic, Germany, Romania and Slovak Republic were the exceptions. A variety of specific issues arise in German casework on this ground. Home births, vaccination, vegetarianism and veganism arise in Czech casework. Vegetarianism also arose in casework in the Slovak Republic. The issues arising in Austria included the experience of employees active as members of a works council. The casework in Romania refers to politically motivated discrimination.

Under-reporting was identified as a particular barrier to casework on this ground by a number of equality bodies. Other equality bodies did not have data available to interpret the low level of casework. The low level of sanctions and the lack of cases on this ground decided in the Courts were also identified as a barrier. Equality bodies reported a low level of concluded case law in relation to this ground. The lack of an explicit requirement in equal treatment legislation to make reasonable accommodation on this ground was a further barrier identified by equality bodies. Short time limits within which to advance cases was also identified as a barrier.

It is clear that it would be valuable to increase the level of casework on this ground both to address issues of under-reporting and to bring clarity to the provisions on this ground.

## **LEGAL**

### **The recommendation of the Croatian Ombudsman on getting a driving license using a photograph with a head covering**

The Minister of the Interior issued the new Regulations on driving licenses (NN 43/13) in which provisions of the appearance of people in photographs of this document were amended at the recommendation of the Ombudsman. The new Regulation now includes provisions that allow citizens' photographs with head covering worn for religious or medical reasons.

Under the "old" Regulations, the police issued a driver's license containing a photograph of the person applying for it without a head covering. They issued a driver's license containing a photograph of the person with a head covering only to older people that, according to folk customs, wore a scarf or hat as an integral part of the folk costume.

The Ombudsman received a complaint by three young women of Muslim religion to whom the police had not issued driving licenses because of head scarves they wore in photographs. The Ombudsman conducted proceedings in which the reasoning of the Ministry of the Interior was examined, as well as comparative case law and available research reviewed. At the end of the proceedings the Ombudsman found that such a provision led to multiple discrimination on the grounds of religion and age.

The Ombudsman argued that the ability to express religious belief or tradition of

people by public display of religious symbols or dress which symbolizes belonging to a religious community may have become a security policy question in public discussions and policies, but that these security arguments must be balanced with the fundamental rights of people who express their religious belief or tradition though public display of religious symbols or dress which symbolizes belonging to a religious community.

Specifically, the Ombudsman argued that it had to be examined how a head covering such as the one in question hinders identification, because it is worn constantly and it does not cover the face. An argument was made that since it is a case of a photograph of a human face, we should ask what is significant about it for identification, i.e. how a head covering that does not cover the face and which is worn daily reduces the possibility of identification of a person who wears it and especially in what way this is related to a person's age.

The Ombudsman quoted some recent studies which show that, contrary to popular views, eyebrows have a more important role in identification, while some internal features of the face (eyes, nose ...) and external (hair and jaw) are also important.

Head covering worn by some older people and young Muslim women, prevents sight of certain external elements e.g. hair. However, photographs of people, who normally wear a head covering regardless of their age, without these head coverings would actually make identification difficult or impossible.

## **4.2 PROMOTION**

Most equality bodies identified that they include the ground of religion or belief along with all other grounds in their work on promotion of good equality practice in a horizontal approach. Eight equality bodies, however, identified specific actions on the ground of religion or belief in their work on promotion<sup>35</sup>.

The activities developed by these equality bodies included:

- Austria: Publication of a leaflet on issues about the Muslim headscarf.
- Belgium: A free online e-learning module, E-DIV, has been developed to promote and explain the antidiscrimination legislation, based on 120 real life situations and questions from managers in the public and the private sector. It includes examples of religious belief. A website with information on rights and duties with regard to religious symbols has also been developed.
- Great Britain: Published guidance on the Eweida v United Kingdom European Court of Human Rights case to explain the law and outline practical ways to manage religion or belief issues. A call for evidence on discrimination on this ground that will lead to published guidance on the law for employers and service providers; managing requests for accommodation on the ground in employment and service delivery; recruitment; time off work for religion or belief reasons; dress codes and the wearing of religious symbols; food and dietary requirements; religion or belief in health and social care employment

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<sup>35</sup> Austria, Belgium, Great Britain, Greece, Ireland, Northern Ireland, Portugal, Sweden.

and service delivery; on the law for religious ethos organisations; freedom of expression; conscientious objection; and balancing competing equality issues. A training programme on religion or belief is planned for employers.

- Greece: A chapter on religion in a publication on 'otherness' with information on the characteristics of religious groups and issues arising from their religious obligations.
- Ireland: A workshop for a public sector learning network on religion or belief.
- Malta: A Seminar was organised by the European Network on Religion and Belief (ENORB) and the European Region of the International Gay, Bisexual, Trans and Intersex Association (ILGA-Europe) in collaboration with the equality body (National Commission for the Promotion of Equality), to strengthen dialogue between representatives of the LGBTIQ community and of various religions/beliefs.
- Northern Ireland: Advice, guidance materials, and training for employers to support them in meeting their obligations under the positive duties in equal treatment legislation.
- Portugal: Training module on inter-religious dialogue for civil society.
- Sweden: A legal seminar on religion in the workplace, public seminars on Islamophobia, a seminar on the portrayal of Islam and Muslims in the media.

Particular barriers in taking action on the ground of religion or belief in their promotion work included stereotypes based on religion, limited employer knowledge of the legislation and the ground, lack of clear definitions of the ground and of Court decisions on the ground, stakeholders seeing little benefit in taking action on the ground, and lack of data on discrimination on the ground.

#### **PROMOTION – COMMUNICATION**

##### **The Austrian Ombud for Equal Treatment published a leaflet on the Muslim headscarf**

The Ombud developed a short-info sheet ("Kurzinfor") with basic information about a person's rights in case of discrimination because of the Muslim headscarf. The Kurzinfor was translated into Turkish and Bosnian / Croatian/ Serbian. It is on the homepage of the Austrian Ombud for Equal Treatment:

<http://www.gleichbehandlungsanwaltschaft.at/site/7667/default.aspx>

##### *Objective*

The majority of cases of discrimination on the ground of religion have been taken by Muslim women who were not given a job because of wearing a Muslim headscarf. There were two types of refusals that seemed to be common: Either the woman who applied for a job was told to remove the headscarf in order to get the job or she was asked whether she would be willing to remove the headscarf, with the argument that either the employer's customers would not accept it or that the employer's uniform policy would not allow head dress. Many

Muslim women were willing to speak up on their own behalf without involving the Ombud and to confront the employer. What they needed for such a confrontation was a short information leaflet about the legal situation in order to show the information to the employer.

One objective of the short-info sheet was to provide basic information to Muslim women to make them more self-confident and successful in their job applications and interviews. The other target groups of the short-info sheet were employers who wanted to inform themselves, as well as other institutions like the Chamber of Labour or trade unions. A third target group were counsellors in counseling institutions to make it clear to them that cases of discrimination with regard to the Muslim headscarf are covered by the Equal Treatment Act.

### *Implementation*

The Ombud had already published short-info sheets regarding other topics with a unique graphic image in different colours. That image was successful with the target groups, so it was decided to continue with the design and layout of the short-info sheets. The text was written by a legal expert from the Ombud and the short-info sheet was printed in German in 2013. Since many Muslim women living in Austria come from Turkey and former Yugoslavia and do not speak German perfectly, it was decided to translate the short-info sheet into Turkish and Serbian /Bosnian/ Croatian.

The Ombud distributed the short-info sheets through five regional offices, and at information conferences and workshops. They were also sent to relevant stakeholders.

### *Stakeholders Involved*

Many institutions are partners in distributing the short-info sheets to their target groups.

### *Issues*

A challenge at the start was that several counselling institutions doubted that wearing a Muslim headscarf was covered by the ETA as an act of religious performance. The legal wording of the ETA is that nobody is to be discriminated against on the ground of religion. In the "Explanatory Notes to the Act", however, it is stated that religious symbols and garments are part of performing a religion and therefore covered by the Act.

### *Impact*

The initiative has empowered many Muslim women to inform employers about the legal situation and has therefore increased their chances to find a job wearing a headscarf. Institutions like the Chamber of Labour, the trade unions and the Employment Agency have changed their interpretation of religious discrimination under the Equal Treatment Act. Muslim women wearing a headscarf are now supported by these institutions when they turn to them.

To promote an image of women wearing the Muslim headscarf at work as "ordinary" employees like all others, the Ombud uses pictures of women wearing headscarf in publications and written information that are not referring to

religious discrimination, including on “Freecards” that show discriminatory situations with regard to age and sexual harassment. Link to the freecards: <http://www.gleichbehandlungsanwaltschaft.at/site/7667/default.aspx>

## **PROMOTION**

### **Public Defender of Rights seminars for Education Inspectors in the Czech Republic**

The Defender held three seminars for inspectors of the Czech School Inspectorate (January 2014, February 2014, November 2014) as part of the *Together towards Good Governance* programme. The seminars were attended by 90 inspectors. One session was devoted to religious symbols in education with respect to teachers and students. This was followed by a case study concerning the Jehovah's Witnesses and a conflict a family had had with a school. The case discussed with the inspectors was based on a real complaint addressed by the Defender in 2013.

The Defender held, for the third time, the annual round table entitled *Together against Discrimination* (February 2015). The round table included a focus on the topic of religion, belief and worldview. It was attended by representatives of ministries and inspection bodies, including the Council for Radio and Television Broadcasting. A sociologist from the Office presented the attitudes of the Czech public towards religious minorities and an external guest from the Faculty of Arts of the Masaryk University presented findings on established and new religions in Czech society and reasons for atheism, concluding his presentation with a forecast of future developments. Participants discussed practical examples from the areas of work and employment, goods and services, health care and education. These included the discrimination ground of religion, belief or worldview (or conflicting discrimination grounds, e.g. belief versus disability).

## **PROMOTION – RESEARCH – COMMUNICATION**

### **The Equality and Human Rights Commission Call for Evidence on ‘Religion or belief in the workplace and service delivery’ in Great Britain**

#### *Objectives*

The call for evidence was the first step in implementing a three year religion or belief strategy, *Shared Understandings*. First hand experiences were gathered from individuals and organisations about how their religion or belief, or that of other people, may have affected them in the workplace and in using the services and facilities they need in everyday life.

The Commission’s aim was to collect as much information as possible from a diverse range of individuals and organisations and then use this information to assess how employers and service providers are taking religion or belief into account and what impact this has on individuals. The goal was to collect personal, direct experiences from a wide range of respondents from different perspectives; both those with a religion or belief and those without who had been affected by the religion or belief of others.



### *Implementation*

Before launching the call for evidence, meetings were held with stakeholders from a wide range of religion or belief organisations, business groups, unions, NGOs (including LGBT groups) and other interested organisations. These meetings were used to explain the purpose of the work and the benefits of responding. All stakeholders agreed to promote the call for evidence to their membership, through a variety of media.

### *Results*

Approximately 2,500 completed responses were received from the target groups; the largest response to a call for evidence in the Commission's history. It provided extensive evidence to assess the effectiveness of existing legislation, understand the experiences of a wide range of individuals and organizations, and identify good practice.

### *Impact*

The call for evidence:

- Reached over 2 million individuals through extensive Twitter, Facebook and LinkedIn coverage mainly through supportive stakeholders.
- Had 20,767 visitors to the religion or belief landing page.
- Had supportive social media coverage, mentions in newsletters and on websites from a range of different individuals and organisations covering a range of religion or belief groups and protected characteristics including groups who had previously been critical of the Commission's work in this area.

The launch of the Call for Evidence report got wide press coverage with 156 articles/interviews in the press, national and local TV and radio coverage creating over 230 million opportunities to hear about the report. 98.7 – 99.9% of all coverage was positive in tone. The report was covered in national print media including the Daily Mail, Huffington Post, Telegraph, Christian Institute, Jewish News, The Economist, The Tablet and Wired-GOV.

The report's launch generated positive coverage for the Commission; enhancing its reputation and contributing to the Commission's wider strategic aim of creating a more balanced public discussion of religion or belief.

The link to the report: <http://www.equalityhumanrights.com/about-us/our-work/key-projects/your-experiences-religion-or-belief>

The link to the Shared Understandings strategy: <http://www.equalityhumanrights.com/about-us/about-commission/our-vision-and-mission/our-business-plan/religion-belief-equality/shared-understandings-new-ehrc-strategy-strengthen-understanding-religion-or-belief-public-life>

### 4.3 COMMUNICATION

Most equality bodies identified that they include the ground of religion or belief along with all other grounds in their communication work in a horizontal approach. Eleven equality bodies identified specific actions on the ground of religion or belief in their communication work<sup>36</sup>.

The activities developed by these equality bodies included:

- Austria: Cases on religion or belief appear as case of the month on the equality body website and free postcards depicting discrimination on the ground have been published.
- Belgium: A website on responding to religious symbols and a public seminar on religiosity and sexual orientation were organised.
- Croatia: The equality body invited all religious organisations to report on discrimination issues to assist in preparing their annual report and cases on the ground have been highlighted on their website.
- Czech Republic: A lecture delivered on 'Religious symbols in public places', participation in a moot court on the issue of religious symbols, lecture on religion in education and employment, seminar with school inspectors on religious symbols in education, round table with representatives of ministries and inspection bodies on religion, belief and world view, and lectures on attitudes in Czech society towards religious minorities. The results of a survey on discrimination were sent to most churches and religious communities with an assurance that complaints of religious discrimination would be treated with due care.
- Great Britain: The equality body organised a call for evidence on discrimination on the ground of religion or belief in the workplace and in service delivery and organised a series of 'Friends of the Chair' meetings to examine issues of religion in different contexts.
- Greece: A network of cooperation and exchange of information was formed with representatives of religious communities to maintain regular contact with religious communities and to involve the competent authorities in dialogue with them.
- Ireland: A public event on Islamophobia was organised.
- Northern Ireland: Publication of annual report on monitoring of the religious composition of the workforce and a paper demonstrating improvements in high level trends in fair participation in employment of Protestants and Roman Catholics.
- Poland: The equality body participated in public debates on the prohibition of ritual slaughter, conscience clauses for doctors not willing to provide legal abortion, and access to ethics classes in schools.
- Portugal: A working group on inter religious dialogue has been created involving representatives of all major religious communities; an annual communication award recognises media work on religious diversity; a brochure has been published on inter religious dialogue; and an information leaflet on diverse religions has been prepared.

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<sup>36</sup> Austria, Belgium, Croatia, Czech Republic, Great Britain, Greece, Ireland, Northern Ireland, Portugal, Poland, Sweden.

- Sweden: A dialogue with all the religious groups and their national congregations has been developed with an annual dialogue meeting with each group to discuss common issues. The equality body has a specific reference group consisting of various Muslim organisations and congregations in civil society that meets a few times a year to contribute knowledge and assure the quality of the work done by the equality body.

While there are impressive exceptions above, the lack of engagement between equality bodies and representatives of religious communities is notable. This contrasts with the work being done with civil society on most other grounds by equality bodies. This limits the channels of communication for equality bodies in relation to this ground and does little to address issues of under-reporting.

One particular barrier identified by equality to taking on the ground of religion or belief in their communication work was reluctance on the part of religious organisations to engage with the equality body.

## **COMMUNICATION**

### **The Greek Ombudsman networking on the ground of religion or belief**

In order to tackle under-reporting, the Ombudsman has created separate networks for each ground of discrimination. This built on previous experience in the establishment of the Network on Roma in 2007 that resulted in an increase of complaints received on Roma issues. The Ombudsman decided to have a specific focus on the grounds of sexual orientation and religion or belief where the number of complaints filed is consistently low in order to encourage reporting and to familiarise the public agencies and organisations involved in discrimination issues with the relevant legislation and the protection provided to victims of discrimination on the ground of religion or belief.

The core objective is to gradually contribute through this initiative to the creation of a more comprehensive culture against discrimination on the ground of religion or belief in the way administrative action is implemented and in the beliefs of the wider public and potential victims. The aims are to facilitate dialogue between various religious groups and representatives of the official Church; establish regular contact with the religious groups who suffer systematically from discriminatory actions; and encourage active dialogue between the public parties involved and religious representatives.

Specific actions are included in the plan of the Ombudsman related to on the spot visits of the staff of the Ombudsman in various regions of the country, mainly connected to the investigation of individual complaints. The aim of the visits, apart from the individual case investigation, is to simultaneously organise meetings with the agencies of local government, local religious groups, NGOs and citizens of the region and to receive more complaints on the spot. The visits also seek to put a focus on the benefits of respect for and promotion of the principle of equal treatment by organising open events and discussion.

## 4.4 RESEARCH

Most equality bodies identified that they include the ground of religion or belief along with all other grounds in their research work in a horizontal approach. Eight equality bodies identified specific actions on the ground of religion or belief in their research work<sup>37</sup>.

Research initiatives by equality bodies included:

- Belgium: A study on reasonable accommodation requests by employees, responses by employers to different types of requests, and the level of negotiation of these issues in the workplace.
- Czech Republic: Research on religious tolerance among employers.
- Germany: A survey on experiences of religious discrimination and two studies on discrimination against Muslims in employment. Existing research was reviewed in order to report to Parliament, as part of the annual report, on religious discrimination in employment and education.
- Great Britain: A review of research on religious discrimination; a review of research on religion, discrimination and good relations; research on religion or belief, equality and human rights in Wales and England; and a statistical briefing paper on religion or belief in Great Britain.
- Ireland: Research on education and religion.
- Poland: Research on provision of education in minority religions and on ethics in schools.
- Portugal: Research on religion and social inclusion; inter-religious dialogue as a cultural project; religious freedom as a stimulus for migration; Brazilian immigration and religious practices; and the role of religious communities in Eastern European immigrant integration.
- Sweden: A pilot study on discrimination against Muslims and perceived Muslims; a compilation of research on Islamophobia and discrimination; a study on portrayal of Muslims in the media; and a study on complaints of discrimination from Muslims or persons perceived as Muslims.

One particular barrier identified to taking on the ground of religion or belief in their research work was a lack of relevant data.

### RESEARCH

#### **The Public Defender of Rights research on religious tolerance among employers in the Czech Republic**

This research is currently under way. It is being carried out with LMC, a company that operates the largest internet portals devoted to work and employment, including job advertisements (e.g. jobs.cz, práce.cz). It is being carried out through a questionnaire sent to 1000 employers (HR managers). The questionnaire was prepared largely by the Public Defender. It includes questions concerning religious symbols, reasonable accommodation measures (e.g. modification of the working time in view of the religious needs of the employees) and special catering requirements, amongst other topics. The questionnaire

<sup>37</sup> Belgium, Czech Republic, Germany, Great Britain, Ireland, Portugal, Poland, Sweden.

results will be analysed and LMC will host a “Breakfast with the Defender” in Prague for HR managers, where the Defender will present the results of the research. The Breakfast should be attended by about 30 HR managers. It is an opportunity to discuss topics that are not frequently discussed in society.

## **RESEARCH – PROMOTION - COMMUNICATION**

### **Initiatives making discrimination against Muslims visible by the Discrimination Ombudsman in Sweden**

Islamophobia and discrimination against Muslims is a serious problem in Swedish society. Islam and Muslims are targeted by the extreme right movement both in politics and the media. The Ombudsman is therefore giving priority to the issue of discrimination against Muslims and persons perceived as Muslims.

In a pilot study it concluded that there is a substantial lack of knowledge about discrimination against Muslims and presumed Muslims. One of the objectives of the initiative is, therefore, to develop and disseminate new knowledge in the field and thus contribute to making discrimination against Muslims visible. To achieve this objective it has, among other things:

- Published a report compiling relevant research regarding Islamophobia and discrimination against Muslims in Sweden during the past ten years. This overview report is available on our website and has been distributed to different stakeholders.
- Given a researcher the task of conducting a study on how Muslims and Islam are portrayed in Swedish media. This study is planned to be published later in 2015.
- Given a researcher the task of conducting a qualitative study of complaints of discrimination from Muslims and persons perceived as Muslims. The study is planned to be published in late 2015 or early 2016. It will be part of a series of similar reports analysing complaints based on different grounds of discrimination.

Another objective of the initiative is to cooperate with key stakeholders and to support them in their own work of preventing discrimination. The results of the studies will be used in this work and the co-operation with stakeholders will be intensified after the studies have been finalised.

A final objective of the initiative is to strengthen the capacity of Muslim civil society and NGO's to assert their rights. The Ombudsman has, in cooperation with these organisations, developed training based upon a human rights approach aimed at empowering the organizations with knowledge of their rights and how to assert those rights. A series of such training events will be organised.

The Ombudsman has set up a reference group consisting of various Muslim organisations, congregations and activists to support this work. The reference group helps to assure the quality of the work and to contribute knowledge.

One challenge in the work has been to define and limit the group to be covered by the above mentioned studies, since discrimination does not only affect religious or practicing, self-defined Muslims but also other people who are

perceived as Muslims due to their name and external markers such as appearance, hair and skin color. The Ombudsman intends to capture and describe the complexity of this problem.

This started up as a three year project, but recently has changed into more long-term work that is conducted as part of its regular line of work. The impact and the results will be evaluated at a later point.

#### **4.5 POLICY**

Ten equality bodies identified a specific focus on the ground of religion or belief in their policy work<sup>38</sup>. The policy issues pursued included:

- Austria: Commentary on the much criticised Act on Islam.
- Belgium: Recommendations on the freedom of students in higher level education to express religious beliefs and wear religious symbols with ongoing reflection on this issue at secondary school and on neutrality in the public sector.
- Croatia: A recommendation to conclude a Treaty on Mutual Interest with minority religious communities was successfully proposed and recommendations on issues in relation to the purchase of facilities for religious purposes and taxation have been made.
- Czech Republic: Opinion issued on failure of school rules prepared by the Ministry of Education, Youth and Sports to properly address religious symbols worn by students.
- Great Britain: An assessment of the effectiveness of the legal framework on the ground of religion or belief.
- Greece: Commentary on issues in relation to establishment and taxation of places of worship, registration of religions in civil status records, and obligatory attendance at religious classes in schools.
- Ireland: Research on religious preference clauses in school admission policies and work on seeking change to exemptions on religious ethos grounds in equal treatment legislation.
- Northern Ireland: Making recommendations on shared education for Protestant and Roman Catholic students, the merger of Roman Catholic and secular teacher training colleges, good relations generally and in schools, housing, and the removal of exemptions from protection under the Fair Employment legislation of teachers.
- Poland: Recommendations on the provision of ethics classes in schools.
- Romania: Action on the enrollment of pupils in religious classes.
- Serbia: Recommendations to harmonise legal regulations in relation to conditions and procedures for registering non-traditional religious communities.
- Sweden: Public commentary on a range of policy issues relating to the ground of religion or belief.

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<sup>38</sup> Austria, Belgium, Croatia, Czech Republic, Great Britain, Greece, Ireland, Poland, Romania, Serbia, Sweden.

## 5. INTERSECTIONAL ISSUES

Gender emerges as the key ground intersecting with the ground of religion or belief. This is particularly as a result on the focus on religious symbols, and in particular on the Muslim headscarf worn by women. This is seen to have made them particularly vulnerable to discrimination. Gender is also noted as being an issue for men in terms of the stereotyping of men from religious minorities. Specific stereotyping of women from religious minorities is also noted.

Racial or ethnic origin is another ground that intersects in a central manner with the ground of religion or belief. Equality bodies note that many cases that could be addressed on the ground of religion or belief are actually addressed on the ground of racial or ethnic origin. Some cases are addressed under both grounds.

Age is an emerging ground to intersect with the ground of religion or belief. It is an implicit issue in the field of education where there is significant case work. It is also raised in relation to sex education for children. It is emerging more explicitly now in social care settings for older people with demands for care that respects religious diversity.

An intersection between religion and socio-economic status was also identified.

## 6. TENSIONS BETWEEN GROUNDS

Gender, gender identity, and sexual orientation are the grounds reported by equality bodies as being in tension in their work with the ground of religion or belief.

Tensions with the ground of gender emerge in relation to issues of sexual health, reproductive rights, abortion and in relation to family life. The goal of gender equality itself is contested in some instances from a religious perspective.

Tensions with the ground of gender identity emerge in relation to the right to be recognised in the gender with which one identifies.

Tensions with the ground of sexual orientation emerge in relation to demands to protect religious ethos of institutions and in relation to same sex marriage and civil partnership. Exemptions in equal treatment legislation have made religious ethos issues difficult for equality bodies to address. Tensions have also emerged in casework on the ground of sexual orientation where the respondent has claimed to act out of a religious ethos.

Four equality bodies reported taking action to address tensions between grounds:

- Belgium: The equality body hosted a seminar to address religiosity and sexual orientation issues.
- Northern Ireland: The equality body engaged in extensive discussions with churches, employers and trade unions, NGOs working on sexual orientation issues, political representatives and media outlets on these tensions.
- Great Britain: The equality body is producing guidance for employers on managing issues of conflicting grounds within the workplace.
- Serbia: The equality body has issued statements to alert the public to the obligations to respect the rights of LGBT people and supported 2014 Pride Parade in the face of Church opposition to these rights.



## 7. CONCLUSION

The ground of religion or belief presents particular challenges to equality bodies. However, the increasing tensions around this ground and the growing difficulties experienced by minority religions is clearly bringing this ground to the forefront of equality body endeavours. This is likely to continue and equality bodies are challenged to gear up to taking on this challenge. It is a sensitive and complex topic that demands a strategic approach and the approach in Great Britain in preparing a strategy for their work on this ground is valuable.

Equality bodies have experienced backlash on foot of supporting or deciding cases on the ground of religion or belief. This cannot be avoided. They also risk being framed in the media and in popular discourse in relation to this ground as the champion of, or voice of, particular religious minorities or as the 'enemy' of religion. This can obscure the mandate and role of the equality body and diminish its capacity to make an impact. Careful communication work on the issue is required to manage and contest this framing.

Under-reporting, a perennial problem, is particularly at issue in the work of equality bodies on the ground of religion or belief as reported in the survey. The ground of religion or belief can also be hidden behind issues on other grounds, particularly the ground of racial or ethnic origin. This makes it difficult for resource-poor equality bodies to give priority to work on the ground of religion or belief. It also makes the development of relations with religious minorities important alongside opening up specific channels of communication with religious communities.

There are particular challenges to building relations and engaging representatives of religious minorities in the work of equality bodies. This is noticeably under-developed in the work to date. This *perspective* offers innovative and effective approaches to developing this engagement. This stretches from engaging religious organisations in the preparation of the annual report in Croatia to the networking in Greece and the reference group developed in Sweden. However, it is clear that identifying who actually are the representatives of a religion is complex and drawing representatives from different religions together to explore common issues under the ground of religion or belief is difficult.

It is evident from the survey responses that the dominant approach by many equality bodies to the ground of religion or belief is a horizontal one, including it alongside the other grounds covered in the initiatives taken by equality bodies. It might be useful to understand the horizontal approach as operating at three levels:

- the joined-up level in initiatives that encompass all grounds covered by the equality body;
- the single-ground level in initiatives specifically focused on the ground of religion or belief;
- and the intersectional level in initiatives focused on those groups at the intersection between other grounds and the ground of religion or belief.

There are now a significant number of equality bodies that have expanded the horizontal approach to include both joined-up work and single-ground work. It is clear that joined-up work alone is not sufficient to respond to the specificity and complexity of the ground of religion or belief. There is a body of work now available for other equality bodies to draw from in responding to the need to include single-ground work in their response to the ground of religion or belief.

There appears to be limited work done by equality bodies at the intersectional level, particularly in terms of women from religious minorities and older people in care settings in particular. Specific initiatives could now be designed and piloted to test out response to the particular needs of these subgroups. Likewise, further work could be done on the tensions identified between the ground of religion and grounds such as sexual orientation, gender identity, and gender to build on and learn from activities already developed by equality bodies in relation to these tensions.

The ground of belief is particularly under-developed in the work of equality bodies and has largely been relegated to a subset of religion. There is a need for more clarity and agreement on the definition of belief and what is covered by this element. However, some equality bodies mentioned in this *perspective* are developing fruitful action on the ground of belief. This will need further examination, dissemination and development if the full potential in the ground of religion or belief is to be realised.

It is clear from the experience of the equality bodies responding to the survey that there remain issues in the manner in which the ground of religion or belief is addressed in equal treatment legislation. The issues include:

- The absence of a definition of religion or belief;
- The lack of a requirement on employers and service providers to make reasonable accommodation on the ground of religion or belief;
- Religious ethos related exemptions that have been used to discriminate on other grounds, despite being prohibited in the EU Directives;
- The limited scope where EU legislation does not include a prohibition on discrimination in the provision of goods and services on the ground of religion or belief.

The EU Directives do not require the establishment of an equality body with a mandate including religion or belief. This needs to be rectified along with the development and implementation of ambitious standards for the independence and effectiveness of equality bodies.

The ambition of the work of equality bodies could usefully be further explored and developed. There is the common underpinning of the pursuit of the elimination of discrimination. Many equality bodies have focused on diversity and the accommodation of diversity. There is a useful and interesting debate now possible between this approach and the thinking developed by the equality body in Belgium on 'Highest Common Denominator' approaches. Few equality bodies have set out to achieve full equality in practice on the ground of religion or belief. The equality body in Malta has pursued an equality mainstreaming approach. The manner in which equality mainstreaming might advance the

ground of religion or belief could usefully be assessed and developed on the basis of this experience.

Equinet will build on this *perspective* with a seminar on the ground of religion or belief, due to be held in London on 9-10 November 2015. It has previously published 'A Question of Faith: Religion and Belief in Europe' as part of its equality law in practice series<sup>39</sup>. This is a useful exploration of casework on this ground. This body of work could usefully continue so as to enable equality bodies to gear up to meet the challenge now posed by the ground of religion or belief; to reflect on their work on this ground and how it might be further developed; and to offer mutual support to each other in realising the potential in this ground for a more equal society.

The European Commission has, in recent years, advanced valuable initiatives at a European level and across the Member States on the ground of religion or belief. This is vital work in establishing some priority for work on this ground and in mobilising the full range of stakeholders required for this work to be effective. It would be valuable for this work to continue and further develop and as well as engaging with equality bodies on the learning from their initiatives on this ground under equal treatment legislation.

In this regard the European Commission Fundamental Rights Colloquium on "Tolerance and Respect: Preventing and combating anti-Semitic and anti-Muslim hatred in Europe" in October 2015 is a welcome step. This holds the potential to bring this ground of religion or belief more centre stage within the broader policy agenda. It should shape an agenda within the specific field of equality policy and practice that could be implemented over the coming period. Equality bodies should be identified and supported as key actors within any such agenda.

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<sup>39</sup> Equality Law in Practice – A Question of Faith: Religion and Belief in Europe, Equinet, Brussels, 2011 - [file:///Users/Liam/Downloads/Religion\\_and\\_Belief\\_Report\\_merged.pdf](file:///Users/Liam/Downloads/Religion_and_Belief_Report_merged.pdf)

# EQUINET MEMBER EQUALITY BODIES

## ALBANIA

Commissioner for the Protection from Discrimination  
[www.kmd.al](http://www.kmd.al)

## AUSTRIA

Austrian Disability Ombudsman  
[www.behindertenanwalt.gv.at](http://www.behindertenanwalt.gv.at)

## AUSTRIA

Ombud for Equal Treatment  
[www.gleichbehandlungsanwaltschaft.at](http://www.gleichbehandlungsanwaltschaft.at)

## BELGIUM

Institute for the Equality of Women and Men  
[www.igvm-iefht.belgium.be](http://www.igvm-iefht.belgium.be)

## BELGIUM

Interfederal Centre for Equal Opportunities  
[www.diversite.be](http://www.diversite.be) and [www.diversiteit.be](http://www.diversiteit.be)

## BULGARIA

Commission for Protection against Discrimination  
[www.kzd-nondiscrimination.com](http://www.kzd-nondiscrimination.com)

## CROATIA

Office of the Ombudsman  
[www.ombudsman.hr](http://www.ombudsman.hr)

## CROATIA

Ombudsperson for Gender Equality  
[www.prs.hr](http://www.prs.hr)

## CROATIA

Ombudswoman for Persons with Disabilities  
[www.posi.hr](http://www.posi.hr)

## CYPRUS

Office of the Commissioner for Administration (Ombudsman)  
[www.ombudsman.gov.cy](http://www.ombudsman.gov.cy)

## CZECH REPUBLIC

Public Defender of Rights  
[www.ochrance.cz](http://www.ochrance.cz)

## DENMARK

Board of Equal Treatment  
[www.ast.dk](http://www.ast.dk)

## DENMARK

Danish Institute for Human Rights  
[www.humanrights.dk](http://www.humanrights.dk)

## ESTONIA

Gender Equality and Equal Treatment Commissioner  
[www.svv.ee](http://www.svv.ee)

## FINLAND

Non-Discrimination Ombudsman  
[www.syrjinta.fi](http://www.syrjinta.fi)

## FINLAND

Ombudsman for Equality  
[www.tasa-arvo.fi](http://www.tasa-arvo.fi)

## FRANCE

Defender of Rights  
[www.defenseurdesdroits.fr](http://www.defenseurdesdroits.fr)

## GERMANY

Federal Anti-Discrimination Agency  
[www.antidiskriminierungsstelle.de](http://www.antidiskriminierungsstelle.de)

## GREECE

Greek Ombudsman  
[www.synigoros.gr](http://www.synigoros.gr)

## HUNGARY

Equal Treatment Authority  
[www.egyenlobanasmod.hu](http://www.egyenlobanasmod.hu)

## HUNGARY

Office of the Commissioner for Fundamental Rights  
[www.ajbh.hu](http://www.ajbh.hu)

## IRELAND

Irish Human Rights and Equality Commission  
[www.ihrec.ie](http://www.ihrec.ie)

## ITALY

National Equality Councilor  
[www.lavoro.gov.it/ConsiglieraNazionale](http://www.lavoro.gov.it/ConsiglieraNazionale)

## ITALY

National Office against Racial Discrimination - UNAR  
[www.unar.it](http://www.unar.it)

## LATVIA

Office of the Ombudsman  
[www.tiesibsargs.lv](http://www.tiesibsargs.lv)

## LITHUANIA

Office of the Equal Opportunities Ombudsperson  
[www.lygybe.lt](http://www.lygybe.lt)

## LUXEMBURG

Centre for Equal Treatment  
[www.cet.lu](http://www.cet.lu)

## (FYRO) MACEDONIA

Commission for the Protection against Discrimination  
[www.kzd.mk](http://www.kzd.mk)

## MALTA

National Commission for Persons with Disability  
[www.knpd.org](http://www.knpd.org)

## MALTA

National Commission for the Promotion of Equality  
[www.equality.gov.mt](http://www.equality.gov.mt)

## MONTENEGRO

Protector of Human Rights and Freedoms (Ombudsman)  
[www.ombudsman.co.me](http://www.ombudsman.co.me)

## NETHERLANDS

Netherlands Institute for Human Rights  
[www.mensenrechten.nl](http://www.mensenrechten.nl)

## NORWAY

Equality and Anti-Discrimination Ombud  
[www.ldo.no](http://www.ldo.no)

## POLAND

Commissioner for Human Rights  
[www.rpo.gov.pl](http://www.rpo.gov.pl)

## PORTUGAL

Commission for Citizenship and Gender Equality  
[www.cig.gov.pt](http://www.cig.gov.pt)

## PORTUGAL

Commission for Equality in Labour and Employment  
[www.cite.gov.pt](http://www.cite.gov.pt)

## PORTUGAL

High Commission for Migration  
[www.acm.gov.pt](http://www.acm.gov.pt)

## ROMANIA

National Council for Combating Discrimination  
[www.cncd.org.ro](http://www.cncd.org.ro)

## SERBIA

Commissioner for Protection of Equality  
[www.ravnopravnost.gov.rs](http://www.ravnopravnost.gov.rs)

## SLOVAKIA

National Centre for Human Rights  
[www.snspl.sk](http://www.snspl.sk)

## SLOVENIA

Advocate of the Principle of Equality  
[www.zagovornik.net](http://www.zagovornik.net)

## SPAIN

Council for the Elimination of Ethnic or Racial Discrimination  
[www.igualdadynodiscriminacion.msssi.es](http://www.igualdadynodiscriminacion.msssi.es)

## SWEDEN

Equality Ombudsman  
[www.do.se](http://www.do.se)

## UNITED KINGDOM - GREAT BRITAIN

Equality and Human Rights Commission  
[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

## UNITED KINGDOM - NORTHERN IRELAND

Equality Commission for Northern Ireland  
[www.equalityni.org](http://www.equalityni.org)

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