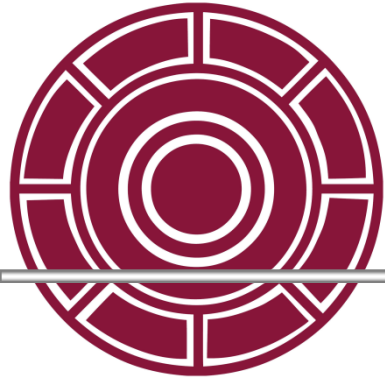


# Importance of the legal mechanism: „How to build a case“

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Sandra Konstatzky  
Zagreb, 8.6.2016



# Individual cases of Equal Pay

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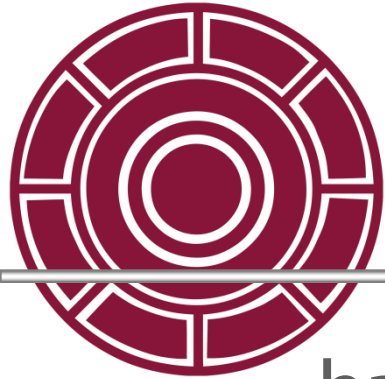
- Legal enforcement of individual rights
- challenging topic
- very difficult for the victims
- burden of proof
- Visibility of discrimination ?



# Risks of the use of law

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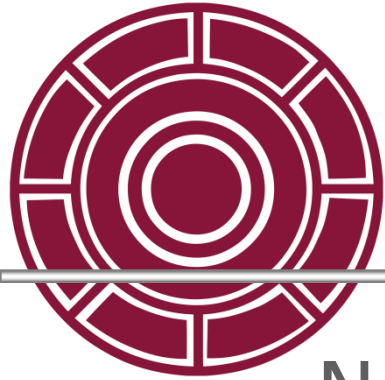
- Stereotypes can be stimulated/used by the law
- Stereotypes will appear during the legal procedures



# Ombud for Equal Treatment in Austria – Equality Body

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- based on EU Directives
- independent assistance for victims of discrimination
- handling individual cases e.g. equal pay cases before the Equal Treatment Commission/Right of gathering information/investigations



# EQUINET

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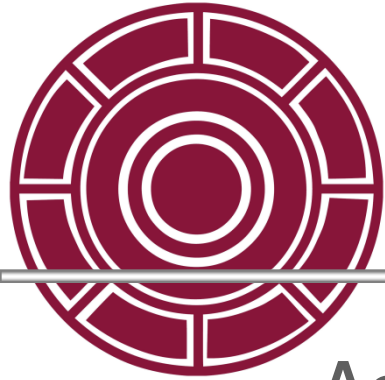
- Network of specialised equality bodies (45 members from 33 European countries)
- Diversity among national equality bodies in terms of size, mandate, grounds, structure and experience



# Equinet: WGr Gender Equality

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- Equal Pay crucial topic
- Report: „Equal Pay for Equal Work and Work of Equal Value“
- Handbook on „How to build a case“
- practical manual and toolbox
- bunch of experience of diverse Equality Bodies



# Aims of the handbook

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- Assist equality bodies **and others** in tackling equal pay cases
- Collect best practices in the practical handling of equal pay cases
- Identify common challenges in handling equal pay cases with systemic relevance

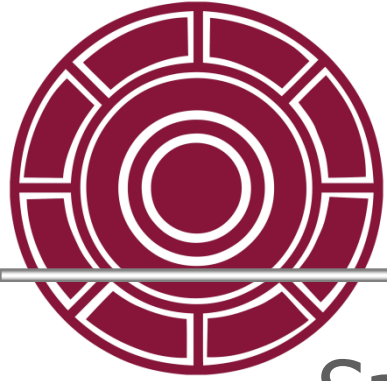


# Outline

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- Introduction
- What to ask a claimant?
- How to gather information?
- What to ask a respondent?
- Building the case
  - Burden of proof
  - Arguments and counter-arguments
  - Job evaluation schemes





# Outline

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- Sanction and follow-up
- Conclusions
- Annex
  - Court decisions
  - Additional tools



# Effectiveness of Equality Bodies?

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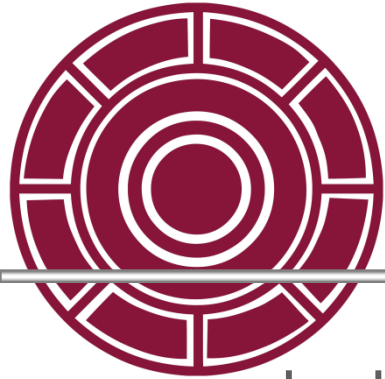
- Most of the Equality Bodies cannot bring cases to court, although they have special experience and knowledge
- Problem of effectiveness: High Level Conference about the need for Standards for Equality Bodies



# Situation in Austria

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- hardly cases before the courts
- very few cases are mostly lost
- → too less knowledge before the courts
- Handbook should bring the topic forward



# We also need good court decisions to make patterns of discrimination visible

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- „she has not negotiated in the same way than her male comperator“
- **Supreme court considered this as discrimination:**
- the employer is responsible for Equal Pay
- The social environment has to be taken into account to consider this situation as a gender discrimination: It is a fact that women earn less in Austria and that is why they do not negotiate in the same way than men and also why they are often willing to work for less money.



# Power of individual cases

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- Legal story telling: in which way does discrimination appear
- make patterns of discrimination visible
- Increase awareness of discrimination