

International Association of Labour Law Journals – Leuven Meeting

Wednesday 24 June 2015

PRACTICAL INFORMATION

1. Meeting concept: University of Leuven (Belgium)

The Institute for Labour Law of the University of Leuven (Prof. F. Hendrickx) is happy to welcome you at the 2015 meeting of the IALLJ.

In light of the planned LLRN Labour Law Conference in Amsterdam from 25-27 June 2015, the Leuven IALLJ meeting takes place on 24 June 2015, in the centre of Leuven.

An exclusive bus transfer will be provided in the late morning of 25 June 2015, in order to reach comfortably the city of Amsterdam around noon. The Amsterdam conference starts at 16.00h.

The IALLJ business meeting will be preceded by a scientific seminar and it will be followed by a dinner in the Faculty Club.

The European Labour Law Journal will exist 5 years in 2015. It will be an opportunity to celebrate this together.

2. Travel

For travel to Leuven, please look at the following information : <http://www.leuven.be/en/tourism/useful-information/how-to-get-there/index.jsp>

(vb. info ivm Leuven/Faculty Club (Fac Lett.):

http://www.ling.arts.kuleuven.be/icame33/_pdf/icame33travelandvenueupdates.pdf)

The practical plan in **Leuven** is as follows:

- Arrivals are expected in Leuven on the evening of 23 June 2015.
- A scientific seminar is organized during the day of 24 June 2015.

- The seminar is followed by the IALLJ business meeting and the IALLJ dinner which is offered by the Institute for Labour Law
- An exclusive bus transfer will be provided from Leuven to Amsterdam in the morning of 25 June 2015, in order to arrive in Amsterdam around noon (the Amsterdam conference only starts at 16.00h that day).

3. Accommodation/venue

We have reserved accommodation at the Faculty Club (*Grand Béguinage*) at Leuven for two nights (arrival on 23 and departure on 25 June) and as well as the meeting room of the Leuven Law Faculty (history – buildings) for the seminar. This accommodation is of a high standard. For more info about the Begijnhof Hotel, please look at: <http://www.bchotel.be/en/>

As for the **expenses** of the accommodation, there are two alternatives: :

- Participants who join the seminar and/or IALLJ business meeting without making an active contribution via a paper will be able to make use of the reserved accommodation (two nights) at their own expenses.
- Participants who join the seminar by making an active contribution via a paper will be able to make use of the reserved accommodation (two nights) on the expenses of the Institute for Labour Law.

Further information about how to participate actively in the seminar, is set out below.

SCIENTIFIC PROGRAMME

Reasonable Accommodation in the Modern Workplace: Potential and Limits of the Integrative Logics of Labour Law

1. Introduction

Employment discrimination law received new impetus in Europe since the adoption of two legislative instruments in 2000. Inspired by the experience of North American legal systems, the European Union launched a system of rules for a new generation of discriminatory criteria, such as age, disability and religion or belief. At the same time, diversity and employability on the labour market constitute growing challenges for the modern global workplace. Setting these developments against the horizon of discrimination law and the 'integrative function' of labour law (cf. B. Hepple, 'The future of labour law', *Ind. L.J.* 1995, 322), it would seem that the need to match workforce diversity with employability and the employers' organizational or business needs, increases the importance of the notion of reasonable accommodation as it operates in employment discrimination law. It also seems that notions such as 'adaptability' and 'employability' not only require workers to adapt to new labour market circumstances, but are also directed towards employers' duties to accommodate work and the workplace to the worker's situation.

In discussing the potential and limits of the legal concept of reasonable accommodation, the planned IALLJ-seminar examines how employment discrimination law gives shape to an accommodated workplace in three main areas of interest: age, disability and religion/belief. What does reasonable accommodation exactly mean in these contexts? How is it related to formal or substantial equality claims or other notions such as (in-)direct discrimination in employment discrimination law? What is the scope of 'accommodation'? How is 'reasonable' defined? Which recognized business requirements may override the duty to accommodate the workplace? Alternative concepts may be regarded depending on the national legal system from which the analysis is made. We will use legislation, case law and legal doctrine as our main sources.

Call for papers: The plan is to invite IALLJ-members to submit and present a (written) paper from the perspective of their legal system and which will be published afterwards. For those who participate with a written paper in the seminar (instructions and outline for useful comparative work will follow), the accommodation can be paid by the Institute for Labour Law (I have a budgetary 'cap' for about 15 people). Please let me know whether you are willing to participate with a paper.

2. Call for papers and participation

Please send an e-mail to frank.hendrickx@law.kuleuven.be with the following information (please select what is appropriate in your case):

- I will not join the scientific seminar and the IALLJ-meeting
- I will join the scientific seminar and the IALLJ-meeting
- I wish to participate actively with a written paper
- I need a room for two nights at the Leuven Faculty Club Hotel

You can add any other information that you wish.

When I have collected all participants who contribute with a written paper, I will contact them to discuss further details, including a short abstract, timing and outlines.

3. Outline/questions

Issues and questions that could be dealt with in contributing papers are raised below. We will use legislation, case law and legal doctrine as our main sources. Central questions are:

- Which area in discrimination law (disability, religion, age) has taken a leading role in the development of the concept of reasonable accommodation?
- How is the concept of reasonable accommodation related to concepts like diversity (e.g. religious diversity) in the workplace, affirmative action, ... ?
- Can the idea of (reasonable) accommodation be found in employment law outside the field of (employment) discrimination law? Can it be seen as having 'horizontal' application, meaning that it influences (or arises from) other areas of employment law? To what extent does labour law provide for duties of the employer to adapt the workplace to the situation of the employee?

It is preferred that participating and contributing papers are seen from the perspective of a particular (national) jurisdiction and take the following structure, allowing for horizontal comparisons.

1. Employment discrimination law as the source of reasonable accommodation

How has 'reasonable accommodation' originated in your legal system? How is reasonable accommodation related with other notions in employment discrimination law such as (in-) direct discrimination? How is reasonable accommodation related with other notions in employment law (see also below)?

2. Definition and scope of reasonable accommodation

How to define reasonable accommodation? What is the scope of the 'accommodation' which may have to be made? How is 'reasonable' defined? Which recognized business requirements may

override the duty to accommodate the workplace? Do criteria such as financial burden or size of the company play a role in the assessment of the reasonableness?

3. An accommodated workplace for religion or belief

To what extent are employers obliged or allowed to adapt the workplace because of religious considerations? Can employers create or invoke neutrality policies as a response to religious expression of employees? Is it possible to ask for adaptation of working hours because of religious considerations? What with religious holidays? Other issues?

4. An accommodated workplace for disability or work incapacity

To what extent are employers obliged or allowed to adapt the workplace because of considerations related to a handicap of an employee or to work incapacity? Does employment law provide for integration or re-integration strategies of disabled/incapable workers (e.g. through occupational health and safety provisions)?

5. An accommodated workplace for age

To what extent are employers obliged or allowed to adapt the workplace because of considerations related to the age of the workforce?

6. Beyond reasonable accommodation

Reasonable accommodation in employment discrimination law may provide a too narrow view. The duty to accommodate or adapt the workplace to the situation, or to specific needs, of employees may be seen as a principle that pre-exists modern employment discrimination law. In health and safety law, for example, there is a duty to take care and, in certain circumstances, to adapt the work or the workplace. The duty to accommodate the work or the workplace, in cases of pregnancy, may be seen as another related example. It would thus become interesting to look at more general legal developments in labour law. Alternative views or concepts may be regarded depending on the national legal system from which the analysis is made and whereby 'adaptability' and 'employability' could be seen as requiring employers to accommodate work and the workplace to the worker's situation.

Concrete labour law areas where this idea might be found could be : disability or work incapacity, requiring the employer to take measures to allow employees to stay in work or return to work; e.g. in working time law where companies take work-family life measures through adaptation of working conditions; e.g. in age related company policies, e.g. in general employment law (e.g. dynamic interpretation of legal concepts such good faith obligations, good employership, ...).