



## NEWS REPORT

**Date:** 16 February 2009  
**Expert:** Per Norberg  
**Title:** Labour Court Case 2009 nr 16. The Ombudsman Against Discrimination v. ICA and Adecco, decided of 11-02-2009  
**Country:** Sweden

### Context

**Issue at stake:** Denied employment because of “over qualification” and personality issues  
**Ground of discrimination:** Ethnic origin  
**Source:** National court decision  
**Field:** Employment  
**Legislative provisions:** The (1999:130) Prohibition of Ethnic Discrimination Act Sections 8, 10 and 16. The (2003:307) Prohibition of Discrimination Act Sections 3, 5, and 9.

### Content

**Case/law/political development:** A Bosnian man, A.H., applied through a temporary agency firm (Adecco) for a job regarding graphic description at ICA (a food store chain). Three other persons – all of Swedish ethnic origin - were employed by ICA, following the recruitment procedure. A.H. had equal or better educational and professional merits compared to the three persons employed. However ICA regarded him as “over qualified”. The employer thought that he had worked with graphic design rather than with graphic description and doubted that he would be content with a “non artistic” job producing promotional material from templates. The two persons interviewing A.H. perceived him to be an “individualist” with a creative disposition rather than a “team player” and two persons working at two of A.H.’s previous employers described him in the same way.

**Decision of the Court:** The Labour Court found that the employer had valid reasons to prefer “team oriented” persons and persons who would concentrate on their work with the templates without thinking of the graphic design issues involved earlier in the production process. Since A.H. did not have the personality required for the job he was not better qualified than the three persons employed



and thus there was no prima facie case of discrimination based on merits alone. The ombudsman lost the case.

**Internet link source and additional information:**

<http://www.do.se/Om-DO/Stamningar-och-forlikningar/AD-dom-ICA-och-Adecco/>