

NEWS REPORT

Update of flash report nr: 69-SE-1-New comprehensive discrimination law adopted by the parliament

Date: 04 May 2009

Expert: Per Norberg

Title: The New Comprehensive Discrimination Act

Country: Sweden

Context

Issue at stake: new legislation

Ground of discrimination: of All grounds

Source: legislation

Field: All fields

Legislative provisions: New act

Content

On 1 January 2009 a new Discrimination Act (2008:567) entered into force. The new Act combats discriminations on grounds of sex, transgender identity or expressions, ethnic origin including religion and other belief, disability, sexual orientation and age.

Chapter one contains the purpose and the content of the Act. Definitions of the following central concepts are given in Section 4, direct and indirect discrimination, harassment, sexual harassment and instructions to discriminate. The grounds of discrimination are enumerated and defined in Section 5.

Chapter two describes the prohibition of discrimination in the areas the Act applies to. These areas are:

1. Working life, Sections 1-4.
2. Education, Sections 5-8.
3. Labour market policy activities and employment services not under public contract,¹ Section 9.
4. Starting or running a business and professional recognition, Section 10.
5. Membership of certain organisations,² Section 11.

¹ If the state employment agency implements one of its tasks through a private company, this is still regarded as an activity under a public contract.

² Employees' organisations, employers' organisations and professional organisations.

6. Access to goods and services, housing and meetings or public events,³ Section 12.
7. Health and medical care and social services, Section 13.
8. Social insurance system, unemployment benefits and financial aid foreducation, Section 14.
9. National military service and civilian service, Sections 15-16.
10. Employment in the public sector, Section 17.

The prohibition of discrimination applies to all grounds in the above-mentioned areas of society.

The exception is that age discrimination is prohibited in some, but not all, of the areas. Some of the areas are all together new; meeting and public events, national military and civilian service and public employment.

The new Act also extends the protection in working life as it covers all aspects of the employer-employee relationship and all aspects of the recruiting process including inquiries from a potential job seeker about a job. The prohibition of discrimination on the ground of disability is extended to in the area of health, medical care and social services.

Chapter three contains the rules on positive measures. Chapter four deals with the supervision of the Act. A new agency, the Equality Ombudsman is created to monitor the compliance with the Act. The four old ombudsmen each working on only one ground are amalgamated into this new ombudsman.

Chapter five deals with compensation and invalidity of contractual obligations violating the Discrimination Act. A new form of economic compensation is introduced, the discrimination award (diskrimineringsersättning). It is designed both to compensate for the violation and to act as a deterrent against discrimination. Using economic compensation as a general deterrent is unusual in Sweden and this will lead to higher compensations in the future. It will also be clear that the discrimination award is not supposed to be in line with the tradition of small amounts of economic compensation elsewhere in the Swedish legal system. There is no formal maximum for the award.

Chapter six finally deals with legal proceedings.

Internet link source and additional information:

For a 4 page information sheet in English see

<http://www.sweden.gov.se/content/1/c6/11/80/10/4bb17aff.pdf>

³ The essential requirement is that the event is open to the general public. A political demonstration, a public lecture, sport, dance, circuses, are examples of activities covered. This area thus covers both commercial and non commercial events.

