



## NEWS REPORT

**Date:** 19 July 2010  
**Expert:** Christoffer Badse  
**Title:** Application from Danish Specialised Equality Body for free legal aid. Free legal aid awarded  
**Country:** Denmark

### Context

**Issue at stake:** The Danish Institute for Human Rights has as a Specialised Equality Body (cf. directive 2000/43/EC article 13) applied for free legal aid on behalf of a complainant for the first time. In July 2010, free legal aid was awarded. Accordingly, the complainant may now choose a lawyer and have the case tried in court free of costs

**Ground of discrimination:** Racial/ethnic origin

**Source:** judicial decision – equality body – civil society

**Field:** Assistance to Victims

**Legislative provisions:** Act on Ethnic Equal Treatment

### Content

**Case:** For the first time, the Danish Institute for Human Rights applied for free legal aid on behalf of a complainant. The case concerned a complainant with a non-Danish ethnic background who had applied for a position as a coordinator at a business school to ensure that students stay at school and finish their education. When he did not receive a reply from the business school, he contacted the school to hear what had happened to his application. The school informed the complainant that he was the best qualified of all the applicants, but that the school wished to employ a person with more practical experience than initially announced and that it, therefore, had re-posted the position with this preference added to the posting. The school also informed the complainant that he was also qualified for the new posting, and that he, therefore, automatically would be taken

into consideration in the second round. A few weeks later, the complainant was informed by the school that someone else had been given the job. The complainant found it odd that he had not even been asked for an interview, especially since he was considered qualified for the position, and claimed that he had been discriminated against on grounds of ethnicity. Accordingly, he filed a complaint at the Equal Treatment Board. The Board held that he had not provided sufficient facts from which it could be assumed that discrimination had taken place as required by the specific EU rules on burden of proof. As a result, the Board held that there had been no discrimination.

With the assistance of a NGO combating racial discrimination, the complainant contacted the Danish Institute for Human Rights and requested support to bring his case to court. The Danish Institute found that it could well be argued that the complainant lifted the burden of proof as required under EU rules. In order to have the scope of the complainant's burden of proof tried in court, the Danish Institute, therefore, applied to the Danish State for free legal aid. In July 2010, free legal aid was awarded. Accordingly, the complainant may now choose a lawyer and have the case tried in court free of costs.

**Background information:** The Danish Institute for Human Rights has chosen to structure its provision of assistance to victims of discrimination in light of the mandate of the Equal Treatment Board. The Institute gives guidance about the law and means of redress to people who feel discriminated against. If the Institute is of the opinion that a person may have been discriminated against, he or she is generally referred to her or his labour union or, if the person is not a member of a union or where the case does not concern the labour market, to the Equal Treatment Board. When complaints could not be dealt with in substance by the Equal Treatment Board because of its inability to hear oral testimonies and where the claim is considered to be reasonable, the Institute will assist the person to apply for free legal aid in court. Further, the Institute provides assistance in applying for free legal aid to try the case in court when it disagrees with decisions of the Board to dismiss a case on the ground that it falls outside the scope of the law or that discrimination has not taken place, . Should free legal aid be granted, the Institute will recommend an attorney specialised in anti-discrimination law.

**Internet link source and additional information:**



The Equal Treatment Board <http://www.ligebehandlingsnaevnet.dk/>  
The Danish Institute for Human Rights:  
<http://menneskeret.dk/danmark/ligebehandlings-r%c3%a5dgivning>