



NEWS REPORT

Date: 13 June 2010
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Title: The case of a prison doctor
Country: Estonia

Context

Issue at stake: Discrimination on the ground of official language proficiency
Ground of discrimination: race/ethnic origin

Source: Decision of the Tallinn District Court of 30 September 2009 (the Supreme Court dismissed the cassation appeal on 4 May 2010)

Field: employment

Content

Case: A former prison doctor filed a complaint claiming *inter alia* ethnic discrimination on the ground of language as her level of proficiency affected her remuneration in 2006 and 2007. Her salary consisted of mandatory basic wages and additional payment granted in conformity with the standard practice in Estonia.

The prison administration grants additional payment provided that the employee can demonstrate all of the following skills at least at an intermediary level: professional competence, professional skills, Estonian language proficiency and computer literacy. In the present case, the complainant did not receive additional payment because her language proficiency was alleged to be below standard. The claimant argued that other employees of minority origin were in the same unfavourable situation as compared with medical staff members of ethnic Estonian origin. Furthermore, claimant's basic wages were below the minimum level recommended for private doctors by the Minister of Social Affairs.

Prison doctors are public officials. In 2006 and 2007 there were no specific anti-discrimination provisions in the Law on Public Service. In addition to general ban of discrimination in the Constitution (Article 12), Article 5 of the Law on Wages prohibited to increase or reduce wages on the grounds of an employee's native language. The claimant also referred to Directive 2000/43/EC on Racial Equality.

The claimant lost before the Tallinn Administrative Court (09.06.2009) and the Tallinn District Court (30.11.2010). The latter decision entered into force

following the Supreme Court's decision to dismiss the appeal brought in cassation (04.05.2010).

Decision of the Court: The Tallinn District Court did not find discrimination of the former prison doctor as compared with other doctors of majority ethnic origin.

The latter group could normally get higher salary due to better command of the official language and not because Estonian is their native language. Medical staff members of minority origin might receive additional payment as well. References to the requirements of the Minister of Social Affairs were deemed to be irrelevant as public officials were concerned. According to the court, Directive 2000/43/EC is irrelevant as well as it deals with ethnic and racial discrimination and not language. In case of public officials, Estonian language proficiency requirements are based on valid legislation and they do not constitute ethnic discrimination. The court argued that "ethnic origin cannot be altered but a person can develop better language proficiency".

Internet link source and additional information:

<http://www.kohus.ee/kohtulahendid/index.aspx> (administrative case 3-08-2604)