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NEWS REPORT

Country:	Finland
Title:	Supreme Court Penal Code precedent on employment discrimination
Date:	30 June 2015
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Issue at stake:	Supreme Court precedent on the interpretation on Penal Code provisions on employment discrimination
Ground of discrimination:	Sexual orientation, (family relations)
Source:	National court decision, KKO 2015:14, 10.6.2015
Field:	Employment
Applicable law:	Penal Code (302/2004), Chapter 47, Section 3

Content

Decision of the Court: The Supreme Court doubled the fines of the CEO of a media company when applying the Penal Code provisions against employment discrimination because of sexual orientation and family relations. The CEO was fined 18 000 euros after the Supreme Court found that he had discriminated the editor-in-chief of a newspaper by terminating her work contract. The work contract was terminated before it had started because the CEO became aware that the editor-in-chief was living with another woman and the editor-in-chief had given false information on the political activity of her spouse. The editor-in-chief had not corrected in the recruitment interview the belief of the CEO who was under the impression that she was living with a man. The editor-in-chief had also told in the interview that her spouse is not politically active.

The Supreme Court found direct discrimination on the basis of both sexual orientation and family relations whereas the Appeal Court had defined the sexual orientation discrimination to be indirect discrimination and had found no discrimination on the basis of family relations when applying the Penal Code.

Prior to the Penal Code decision by the Supreme Court, the editor-in-chief had won in March 2010 the civil law case against the employer and had been awarded 80 500 euros for illegal termination of the work contract. This compensation included 5 000 euros as compensation for a breach of the prohibition of discrimination of the Non-Discrimination Act.

Key points of analysis:

- the Supreme Court confirmed that a person is not required to speak the truth when being asked about sexual orientation or political activity in a recruitment interview; and
- the threshold for "acceptable reason" justification for differential treatment in applying the Penal Code prohibition of discrimination is high even though the burden of proof does not shift when applying the Penal Code.

Internet link source:

<http://korkeinoikeus.fi/fi/index/ennakkopaatokset/precedent/1433846010211.html>