



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	The Netherlands
Title:	Municipal policy on trailer parks found discriminatory
Date:	31 July 2015
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<u>Context</u>	
Issue at stake:	Municipal policy passively reducing the number of trailer parks to zero is discriminatory on the ground of race
Ground of discrimination:	Race/ethnic origin
Source:	National equality body decision
Field:	Housing
Applicable law:	Article 7a General Equal Treatment Act

Content

Case: The Dutch equality body Netherlands Institute for Human Rights (NIHR), in Decision 2015-61 (rendered on 28 May 2015), has confirmed its previous case-law that a policy implemented by a local government that would eventually put an end to 'trailer parks' ("woonwagenkampen") amounts to discrimination on the ground of race (ethnic identity). In the Netherlands, many Roma and Traveller people live in caravans or trailers, situated on officially designated trailer parks.

In the city of Vlaardingen, nine places for caravans or trailers are available at a designated trailer park. The municipal government, with a reference to (i) integrating the inhabitants of these parks into the wider society and (ii) the financial costs associated with these parks, dismantles every stand that gets unoccupied. A resident of the trailer park in Vlaardingen brought a case before the NIHR against the municipal government, complaining about this policy. The woman, who lived with her parents in one of the trailers, wanted to leave the parental home and move into a trailer of her own with her partner. She complained that the policy renders it effectively impossible for (the children of) current residents to move to another trailer and therefore threatens their way of living (invoking the ground race / ethnic identity).

Decision of the equality body: The NIHR, referring to its Decisions in NIHR 2014-165, -166 and -167 (see Flash report 1362-NL-101), finds that the policy affects the core of the caravan culture. The equality body considers that the (*prima facie* neutral) policy only affects one particular group, i.e. Roma people and travellers, and therefore concludes that the policy is directly discriminatory on the ground of race (the NIHR refers here to CJEU Case C-196/02 (*Nikoloudi*), ECLI:EU:C:2005:141). The two exceptions of Article 2(4) GETA, concerning cases where a person's racial appearance is a determining factor, or cases where a person's racial appearance is, by reason of the nature of the particular occupational activity concerned, a genuine and determining occupational requirement, do not apply. The municipal policy thus constitutes a forbidden distinction on the ground of race.

The NIHR is a low-threshold quasi-judicial body which renders decisions that are non-binding but nevertheless followed in the vast majority of cases. After the NIHR has rendered a decision, a complaint may still be lodged before a conventional civil/administrative court if the applicant wishes to obtain a binding judgment. The NIHR's decisions are taken into account by the regular courts and widely considered authoritative.

Key points of analysis: The NIHR has confirmed its previous case-law that a policy implemented by a local government that would eventually put an end to 'trailer parks' amounts to discrimination on the ground of race (ethnic identity).

Internet link source: The NIHR's Decision (2015-161) may be found at:
<http://mensenrechten.nl/publicaties/oordelen/2015-61>