



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

### NEWS REPORT

<b>Country:</b>	Sweden
<b>Title:</b>	Age Discrimination regarding workers at the age of 70
<b>Date:</b>	24 September 2015
<b>Expert:</b>	Per Norberg
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Refusal to renew limited-time contracts
<b>Ground of discrimination:</b>	Age
<b>Source:</b>	Labour Court
<b>Field:</b>	Employment law
<b>Applicable law:</b>	Discrimination Act Chapter 2 Section 2 point 4.

### **Content**

On the 16 of September 2015 the Swedish Labour Court decided case 2015 nr 51, *The Equality Ombudsman v. Keolis AB*.

The Swedish Employers may freely decide to dismiss workers at the age of 67 according Sections 32 a) and 33 of The Employment Protection Act.<sup>1</sup> Which has been deemed acceptable with regard to both national and EU discrimination law (see ECJ C-141/11)<sup>2</sup>. The employers are furthermore free to use limited-time contracts above that age without any restriction according to Section 5 of the Employment Protection Act.

The bus company Keolis had a more generous policy of offering limited-time employment of one year (at a time) contracts to workers dismissed at the age 67. These contracts allowed the worker to work on an hourly basis in cases when the company had specific needs, due to for instance ordinary workers calling in sick – but the worker was not guaranteed any work or income.

The Company policy applied yearly health checks for workers above 65 and the renewal process would for limited-time contracts stop at 70 based on safety reasons. The Equality Ombudsman went to Court on behalf of three workers who based on this policy had not received renewed limited-time contracts.

The Labour Court found that a private company's safety concerns was not a legitimate aim that could justify a decision not to renew the contracts and awarded the three workers 40.000 SEK (approximately 4000 Euro) each in discrimination award.

**Key Points of Analysis:** If an employer is allowed to dismiss a worker at the age of 67 because the state has introduced legislation allowing it (for employment and labour market reasons) and an employer nevertheless offers an employee employment after that age and dismiss (or as in the Keolis case refuse to renew a limited-time contract) at

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<sup>1</sup> Lag (1982:80) om anställningsskydd.

<sup>2</sup> European Court of Justice, Case 141/11, Torsten Hörnfeldt vs Posten AB, (judgement 2012-7-5).

a higher age, should discrimination law really require a more stringent justification of the employer?

**Internet link source:**

<http://www.do.se/globalassets/diskrimineringsarenden/arbetsdomstol/dom-arbetsdomstol-keolis-anm-2014-592-600-601.pdf> Last accessed on 22.09.2015.