



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

### NEWS REPORT

<b>Country:</b>	Sweden
<b>Title:</b>	Discrimination in access to housing without individual victim
<b>Date:</b>	26 April 2016
<b>Expert:</b>	Per Norberg
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Private Landlord avoiding to enter into contracts with "foreigners"
<b>Ground of discrimination:</b>	Ethnicity
<b>Source:</b>	TV-program and newspaper discussion
<b>Field:</b>	Housing discrimination
<b>Applicable law:</b>	Violation of Discrimination Act – Absence of sanctions

### Content

This news report stems from a Swedish regional TV-program in which a situation testing regarding housing was performed.<sup>1</sup> The reporters from the TV-program phoned a landlord in the area of Bergsjön and asked for apartments while speaking with a foreign accent. These reporters were questioned about their employment situation, and asked to provide references from previous landlords. Then another reporter who spoke perfect Swedish called and was invited to apply without any further questions.

The application sent to the reporters contained a question where the applicant should fill in his or her ethnicity and if the ethnicity was "Non-Swedish" they should state how long they have lived in Sweden.

Bergsjön is a Swedish sparse area where the biggest landlord is one of the municipal housing companies. Since ethnic background is not registered in Sweden, checking the ethnic background in the Curt Lundahl apartments and other apartments can only be done with crude methods like looking at the names (provided by the tax authorities). The reporters thus provided figures signalling a striking overrepresentation of tenants with ethnic Swedish background in the houses owned by Curt Lundahl Ltd. In their houses (375 apartments) 72% of the tenants have Swedish names while in the houses nearby the percentage was around 10-20%.

The Tenant Union took the case to the Equality Ombudsman,<sup>2</sup> who has decided to open a case of supervision (tillsyn).<sup>3</sup> Within this framework, the Ombudsman can declare a violation if the Discrimination Act. Such a declaration is non-binding. There is no possibility for the Discrimination Ombudsman to apply sanctions unless an individual victim steps forward.

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<sup>1</sup> <http://www.svt.se/nyheter/lokalt/vast/kan-bli-fall-for-diskrimineringsombudsmannen>.

<sup>2</sup> <http://www.hemhyra.se/vastra-gotaland/goteborgsvard-do-anmald>.

<sup>3</sup> <http://www.do.se/om-do/pressrum/aktuellt/aktuellt-under-2016/do-inleder-tillsyn-mot-bostadsbolag/> GRA (case of supervision) 2016/11.

Either the Equality Ombudsman, the Tenant Union or someone else must find an individual who have been discriminated against or abstain from seeking sanctions. This victim must be someone who really wants an apartment with the landlord so as to compare his or her situation to a fake applicant. If they can be set up with similar backgrounds and phone conversations or showings of apartments taped, then the landlord (if treating the foreigner disfavouredly) will be found guilty of discrimination and have to pay a discrimination award. Without an individual victim this violation cannot be sanctioned.

The only difference between *Firma Feryn*<sup>4</sup> and this case is that the landlord does not admit to have aversions against foreigners in Bergsjön. However, there is abundant evidence of a discriminatory general practice. But proving that fact will not result in a sanction unless an individual who has suffered a disfavour also can be presented.

The Tenant Union or the Equality Ombudsman may choose to apply situation testing to provide evidence in an individual case.

Without it – or other evidence in an individual case - the landlord has not broken Swedish law in a way which leads to sanctions - nor any EU-law with horizontal direct effect.

**Key points of analysis:**

- Chapter 2 of Discrimination Act requires an individual victim.
- Chapter 16 Section 9 of the Penal Code (unlawful discrimination) requires an individual victim.
- Chapter 3 of the Discrimination Act cannot be applied as it does not apply in the housing sector.
- Directive 2000/43 cannot be applied directly as this landlord is private and the directive has only vertical direct effect.

**Internet link source:**

<http://www.svt.se/nyheter/lokalt/vast/kan-bli-fall-for-diskrimineringsombudsmannen>.

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<http://www.hemhyra.se/vastra-gotaland/goteborgsvard-do-anmald>

All last accessed 22/04/2016.

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<sup>4</sup> European Court of Justice, case C-54/07, Centrum voor gelijkheid van kansen en voor racismebestrijding vs Firma Feryn NV (judgment 2008-7-10).