



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

### **NEWS REPORT**

<b>Country:</b>	Denmark
<b>Title:</b>	Board of Equal Treatment ruling on "Negro" and "American"
<b>Date:</b>	27 May 2016
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<b><u>Context</u></b>	
<b>Issue at stake:</b>	Does the use of the words "Negro" and "American" by a public social worker constitute discrimination?
<b>Ground of discrimination:</b>	Ethnic origin
<b>Source:</b>	Board of Equal Treatment, decision delivered on 6 April 2016 in case No. 55/2016
<b>Field:</b>	Social protection
<b>Applicable law:</b>	Section 2 and 3 of the Act on Ethnic Equal Treatment

### **Content**

#### **Case:**

A woman claimed that she had been discriminated against due to her race and ethnic origin. She had a 3 year-old son who was hospitalized because of anxiety. The son was to be placed in a 24-hour care centre after staying at the hospital. The mother did not agree in the placement of her son. A social worker from the care centre met with the mother at the hospital and tried to sort out things.

In the journal the social worker wrote the following: "In the US the complainant works as a prison guard. [...] The father is a Negro and she does not live with him. [...] She seems very American in her statements and thoughts, which I understand from her opinions about the services of the Danish society being independent of whether you have money or not."

The woman claimed that the social worker had acted in a racist way, which was disputed by the care centre.

#### **Decision of the Board:**

The Board stated that the woman had established facts of possible discrimination. The reasoning was that the word "Negro" after a subjective assessment could be regarded as insulting towards the complainant.

On the other hand, the use of the term "Negro" in the context in question was not found to have either the purpose or effect of violating the dignity of the complainant and of creating an intimidating, hostile, degrading, humiliating or offensive environment for her. In this regard, the Board emphasized that there was no evidence to suggest that the social worker's writings in the journal influenced the proceedings of the case. Thus, the Board stated that the complainant was not treated differently because of her own or her child's ethnic origin. On that background the Board concluded that no discrimination or harassment had taken place.

The Board also concluded that the description of the complainant as "American" did not constitute discrimination or harassment according to race or ethnic origin.

**Key points of analysis:**

In the decision, when it comes to the evaluation of whether harassment has taken place or not, the Board argues as if there is a need for the social worker's use of the word "Negro" to actually have influenced the proceedings of the case. However, to constitute harassment it is not a requirement that a statement has influenced the actual proceedings of a case.

To constitute harassment a statement must (only) violate the dignity of the complainant in both a subjective and objective way.

**Internet link source:**

<http://www.ligebehandlingsnaevnet.dk/naevnsdatabase/afgoerelse.aspx?aid=1867&type=Afgoerelse>.