



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

NEWS REPORT

Country:	Norway
Title:	Proposal for re-organisation of Equality Ombud and Equality Tribunal sent for public hearing
Date:	14 December 2016
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Update of flash report nr:	30 June 2015 and 1 July 2016
<u>Context</u>	
Issue at stake:	Government proposal to transfer the individual complaint mechanism from the Equality Ombud to the Equality Tribunal, and to give the Equality Tribunal power to award non-monetary damage in cases concerning working life
Ground of discrimination:	All grounds, including gender
Source:	Legislation
Field:	Other
Applicable law:	Act on the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal of 10 June 2005 No 40 (<i>Diskrimineringsombudsloven</i>)

Content

Law:

The Minister of Children and Family affairs initiated in 2015 an assessment of the current set-up and structure of the national equality bodies – the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal, as regulated in the specific act governing these bodies. A new legal proposal has been sent for public hearing on 19 October 2016 in which a number of changes to this act is proposed.

A key feature of the revised act is the reorganisation of the roles of the Equality Ombud and the Equality Tribunal. The proposal suggests the transfer of the individual complaint mechanism from the Equality Ombud to the Equality Tribunal, so that individual complaints will be handled by the Tribunal only.

The current role of the Ombud as proactively promoting equality and combating discrimination will continue as before, by giving independent surveys, reports and recommendations. The Ombud will also continue to monitor that Norwegian law and administrative practice are in accordance with Norway's obligations pursuant to the CEDAW, CERD and CRPD. The Ombud will also continue to have legal standing to bring discrimination complaints to court on behalf of identified victim(s) or to intervene in legal cases concerning discrimination, as co-counsel or *amicus curiae*.

The Equality Tribunal will continue to handle individual complaints, but will in the new structure be the only administrative complaint mechanism. The Tribunal will be given powers to award redress/ compensation for non-monetary damage in cases where a

breach of the anti-discrimination legislation is found.

A proposed change is that all complainants will have to pay a fee of approx. €55 for the Tribunal to handle the case. This in order to avoid unjustified or unnecessary complaints. A practical new proposal is that a complaint to the Equality Tribunal will interrupt limitation periods for claims, and that decisions of the Tribunal will be directly enforceable in cases where compensation has been awarded. The Tribunal will, as currently, be organised as a collegial tribunal with no full-time employees, but will be supported by a staff/ secretariat of full-time employees. There will be two leaders of the Tribunal, both with judge qualifications, but none employed at the Tribunal in a full-time position.

The complainant may – as currently - at any point transfer the case to the ordinary courts, at which point the case will be rejected from the proceedings before the Equality Tribunal.

Key points of analysis:

As most discrimination-cases in Norway are brought before the equality bodies, and not before the courts, the proposal to empower the equality bodies a mandate to award non-monetary compensation in discrimination cases will be an efficient way to ensure the victims of discrimination access to an effective remedy. As such this proposal is welcome.

Establishing the Tribunal as the only mechanism to receive individual complaints will in the view of the author strengthen the enforcement mechanism, as it hopefully will lead to a quicker and more efficient treatment of individual cases. As such, it is a pity that the Tribunal will not be established with full time judges as leaders of the Tribunal, in order to strengthen the efficiency and the quality of the Tribunal.

Internet link source:

https://www.regjeringen.no/contentassets/14dd1daa159348c88de5dbe043feb0a4/horing_snotat.pdf (accessed 22.10.2016) (In Norwegian only).