



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

FLASH REPORT

Country:	Finland
Title:	Police stop and search found to be discriminatory
Date:	20 February 2019
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<u>Context</u>	
Issue at stake:	Stop and search by the police found to be ethnic profiling and direct discrimination prohibited in the Non-discrimination Act
Grounds of discrimination:	Racial or ethnic origin
Field of application:	Other field
Source:	National court decision, The National Non-Discrimination and Equality Tribunal decision, 19.12.2018, 337/2018
Applicable law:	Sections 8(1,2), 10, 11(1), 20(3) and 28 of the Non-discrimination Act (1325/2014)

Content

Decision of the court: The National Non-Discrimination and Equality Tribunal found that Helsinki Police had practised ethnic profiling, and the Tribunal considered it as direct discrimination prohibited in the Non-Discrimination Act.

Two black women complained about police discrimination after they were stopped and searched by two police officers at 2 am in the centre of Helsinki. Helsinki Police Department told the Tribunal that the officers were on a surveillance task of suspected prostitutes and performing immigration status checks. The police officers denied discriminating against the women but admitted that their actions were in part influenced by the fact that the women were black. The Police Department explained that many foreign prostitutes lack the right to reside in Finland and may even be victims of human trafficking.

The Tribunal considered that the target of the police - to combat street prostitution and human trafficking - is an acceptable aim needed for justification for direct discrimination.¹ The means that the police used were however not in due proportion and therefore there was no justification of discrimination. The Tribunal pointed out especially that the white man who the police saw discussing with the women was not stopped by the police, even though the legislation prohibits both the purchase of sexual services and offering sexual services in a public place.

The Tribunal prohibited the Police of repeating discriminatory stop and search practice and imposed a conditional fine of EUR 10,000 in order to enforce compliance with its injunction.

¹ Section 11(1) of the Non-Discrimination Act stipulates a general justification defence of direct discrimination in situations governed by the Racial Equality Directive and when public power is used. It reads: 'differential treatment is only allowed if the treatment is based on legislation, the treatment has an acceptable aim and the means used are in due proportion for achieving this aim.'

Key points of analysis:

- The Non-discrimination Act has a wide scope of applicability: discrimination is prohibited in all fields of life meaning that also the acts of authorities such as the Police can be considered discriminatory.
- The Non-Discrimination and Equality Tribunal prohibited the discrimination and set a conditional fine not only against further discrimination of the claimants but for the Police in general to use discriminatory stop and search practice.

Internet link source:

https://www.yvtltk.fi/fi/index/tiedotteet/2019/02/yhdenvertaisuus-jatasa-arvolautakuntakatsoipoliisinmenetelleensyrjintakiellonvastaisestikatuprostituutionvalvonnassa_0.html (published 6.2.2019) and
https://www.yvtltk.fi/material/attachments/ytaltk/tapausselosteet/kmnntSkQp/YVTltk-tapausseloste-19.12.2018-etninen_profilointi.pdf (published 6.2.2019).