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FLASH REPORT

Country:	Norway
Title:	Amendments to the Act on the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal and Gender Equality- and Anti-Discrimination Act
Date:	30 July 2019
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Context	
Issue at stake:	Sexual harassment, employer's duties to report on equality matters, strengthening of the Ombud's authority to give guidance in cases on discrimination
Grounds of discrimination:	Gender, Sex
Field of application:	All fields
Source:	National legislation
Applicable law:	Amendments of the Act on the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal (EAOA) ¹ and Gender Equality- and Anti-Discrimination Act (GEADA) ² The amendments have been approved by parliament, but have not yet entered into force.

Content

Law development: On 11 June 2019, Parliament approved the amendments of the Act on the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal (EAOA) and Gender Equality- and Anti-Discrimination Act (GEADA).

The Norwegian Parliament has through amendment of the EAOA given the Equality- and Anti-Discrimination Tribunal the authority to enforce article 13 regarding the prohibition against sexual harassment in the Gender Equality and Discrimination Act (GEADA), and to impose redress in cases of sexual harassment in the workplace and compensation in less complicated cases.

At the same time the amendment of GEADA has also strengthened the authority of the Equality and Anti-Discrimination Ombuds to give assistance and guidance in cases on sexual harassment and in equality in general. Provisions have also been adopted to strengthen the employer's obligations to report on equality matters to the authorities. The employer's duties in GEADA are now more concrete and specified in the legislation.

¹ The Act on the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal (EAOA) of 16 June 2017 no 50 <https://lovdata.no/dokument/NL/lov/2017-06-16-50?q=2017-06-16-50>.

² Act on Gender Equality and Anti-Discrimination of 16 June 2017 no 51 <https://lovdata.no/dokument/NL/lov/2017-06-16-51?q=2017-06-16-51>.

Key points of analysis: There are several important changes in the approved amendment of the AOT (the Act regulating the equality bodies), and the GEADA.

First of all, the EAOA transfers the individual complaint mechanism in cases on sexual harassment from the courts to the Equality Tribunal. The Tribunal will be the only administrative complaint mechanism to treat individual complaints on sexual harassment. The Tribunal is given the authority in the Equality and Discrimination Act to enforce the ban on sexual harassment and to impose redress on sexual harassment cases in employment. The Tribunal is also given authority to impose compensation for economic loss in cases regarding breach of GEADA and the Act on Working Environment and the other acts mentioned in EAOA section 1, where the only submissions made by the respondent relate to inability to pay or other manifestly untenable objections.

In cases of sexual harassment and where claims on redress have been made, the parties are entitled to oral negotiations.

The Tribunal's decisions will be directly enforceable in cases where compensation has been awarded. The Tribunal will, as currently, be organized as a collegial tribunal with no full-time employees but will be supported by staff/ secretariat. The leaders of the Tribunal have formal judge qualifications, but none are employed at the Tribunal in a full-time position.

Also, the EAOA strengthens the Ombud's role to promote equality. The Ombud shall provide guidance on matters on equality and discrimination. Anyone can turn to the Ombud for guidance, even in individual cases. One important task of the Ombud is to follow up the duty of public and private employers' duties to promote equality, and report on equality and non-discrimination. It is specified in EAOA that the Ombud can work together with companies to develop a common approach to how the company can promote gender equality and equality in general. The Ombud is entitled to review the public and private employers' gender equality reports, analyse the findings and make a proposal for improvement measures and strengthened efforts on gender equality work. The Ombud can also make so called follow-up visits to the companies.

Amendment of the GEADA has also been approved in the same legislative decision as the EAOA. According to Article 26 a of the amended GEADA the employers shall now every year report on the actual condition regarding gender equality in the company and what the company does to fulfill its obligations when it comes to gender equality, such as to achieve equal pay. The statement in accordance with the first paragraph shall be given in the annual report or in another public available document.

The company's employees and their representatives, the Tribunal, the Equality and Anti-Discrimination Ombud and researchers have the right to access the results of the salary mapping, even when the results cannot be anonymised. The information can only be provided to the extent that they are necessary to investigate whether there is illegal differential treatment when it comes to wages/unequal pay.

Internet link source: Link to the legal decision from the parliament with the amendments; <https://www.stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/Lovvedtak/2018-2019/vedtak-201819-085/>. The text is not translated into English, nor have an English summary.