



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

FLASH REPORT

Country:	Iceland
Title:	Minister of Education, Science and Culture found in breach of Gender Equality Act in appointing Permanent Secretary
Date:	18 September 2020
Expert:	Herdís Thorgeirsdóttir
<u>Context</u>	Appointment of Permanent Secretary, Ministry of Education, Science and Culture, Violation of GEA
Issue at stake:	Gender Equality Complaints Committee ruled that the Minister of Culture had violated the Gender Equality Act when appointing the Permanent Secretary
Grounds of discrimination:	Gender
Field of application:	Employment
Source:	National court decision
Applicable law:	Gender Equality Act No. 10/2008

Content

This case before the Gender Equality Complaints Committee, Ruling No. 6/2020¹ concerned the appointment of a new Permanent Secretary of the Office of Permanent Secretary in the Ministry of Education, Science and Culture. The claimant, a woman, considered that the Gender Equality Act No. 10/2008 had been violated by the Minister of Education, Science and Culture, Ms Alfredsdóttir, when she appointed a man as Permanent Secretary over her on the basis of the conclusions of an appointment committee whose chairman is appointed by the same minister. The Gender Equality Complaints Committee ruled that there had been various shortcomings in the defendant's assessment of the claimant and of the man who was appointed Permanent Secretary. In short, the defendant had undervalued the claimant when comparing her with the later appointed man, with regard to their education, experience in public administration, leadership qualities and competence to express themselves in speech and writing, which were all unequivocal requirements in the advertisement for the post of Permanent Secretary. Taking the above into consideration and following a thorough analysis by the Complaints Committee of the individual aspects of the advertisement for the post, the claimant was able to show with enough likelihood that she had been discriminated against on the grounds of gender when the man was appointed and that Article 26, para. 4 of the Gender Equality Act No. 10/2008 applied in this case. According to this provision, a defendant who is alleged to have discriminated against a person must demonstrate that the grounds for the treatment were not gender-based, unless such discrimination can be justified in a relevant manner with reference to a lawful aim and the methods used to achieve the aim are appropriate and necessary.

¹ <https://www.stjornarradid.is/gogn/urskurdir-og-alit-/stakur-urskurdur/?newsid=3de81c49-a4d6-11ea-8114-005056bc8c60&cname=Kærufnd%20jafnréttismála&cid=e219adb3-4214-11e7-941a-005056bc530c>.

The Post of Permanent Secretary in the Office of Permanent Secretary of the Ministry of Education, Science and Culture was advertised in June 2019. The appointment committee considered 4 out of 13 applicants to be qualified and the claimant was not 1 of the 4.

The claimant asked for an official explanation when she was not considered and for access to all relevant documents in the appointment process. She received the reasoning of the appointment committee, but the Ministry denied her access to the documents of the case, submitting that the private interests of other applicants had more weight than her interests in seeing them. The claimant objected three times and was finally granted access to all the documents in January 2020.

The man who was appointed is a former deputy Member of Parliament for two election periods for the Progressive Party which is also the party of this Minister. He was furthermore an assistant to a former Minister of the Progressive Party for a time and later held a high-ranking post within a municipal administration.

The female claimant is head of a department in the Prime Minister's Office, prior to which she was chair of the Parliament Committee Domain and the representative of the Prime Minister's Office in the embassy of Iceland in Brussels.

According to the Gender Equality Act the rulings of the Complaints Committee are binding for the parties to each case. The parties may refer the Committee's rulings to the courts.²

Subsequent to the ruling in favour of the claimant, her next move would be to initiate legal proceedings against the Minister of Education, Science and Culture and seek compensation.

Internet link source:

<https://www.stjornarradid.is/gogn/urskurdir-og-alit-/stakur-urskurdur/?newsid=3de81c49-a4d6-11ea-8114-005056bc8c60&cname=Kærunefnd%20jafnréttismála&cid=e219adb3-4214-11e7-941a-005056bc530c>.

<https://www.ruv.is/frett/2020/06/02/lilja-braut-jafnrettislog-med-radningu-pals-magnussonar>.

<https://www.ruv.is/frett/2020/06/25/kallar-eftir-afstodu-katrinar-til-kaerumals-lilju>.

² Article 5(4) of the Gender Equality Act No. 10/2008.