

Partial reform of the Non- discrimination Act

- Steps towards equality.



The Non-discrimination act

- The current Non-Discrimination Act entered into force on 1 January 2015.
- Besides public activities, the Act also applies also to private activities, however excluding activities pertaining to private or family life and the practising of religion.
- The Act provides for equally broad protection against discrimination regardless of whether the discrimination is based on origin, age, nationality, language, religion, belief, opinion, state of health, **disability**, sexual orientation or other personal characteristics.
- The provisions on prohibiting discrimination based on gender and the equality of the sexes are in the Act on Equality between Women and Men.
- The Act includes regulations about **reasonable accommodations** and also denial of reasonable accommodations is defined as discrimination by the law.

The partial reform

- After five years, it was time to consider a partial reform of the Act.
- A partial reform was also part of the government's program.
- The only concrete thing that was mentioned in the government's program to be changed was to make obligatory for the early childhood education to promote equality and to prepare a individual plan for promoting equality for example for day care centers.
- To assess what else should be changed the government financed a study to assess the success of the legal reform of 2015.
- Also the Non-Discrimination Ombudsman and the National Non-Discrimination and Equality Tribunal informed the ministry of justice of the changes they considered to be needed.

Preparing the reform

- The ministry of justice decided to establish two working groups.
- One working group was led by the ministry of justice and another by the ministry of economic affairs and employment.
- The working group of ministry of justice included public officials.
- The working group of the ministry of justice also had two members of the Finnish disability forum in its meetings when the issue was connected to people with disabilities. (especially issue of reasonable accommodations)
- The working group of ministry of economic affairs and employment also had members of the trade unions and employees and it focused on the discrimination at the working life and surveillance of such discrimination.

Preparing the reform

- Both working groups started to gather (via Teams) August 2021 and meetings were held once in two weeks.
- The working group of ministry of justice also held a wide hearing of the civil society via Teams – this included also societies or other groups representing people with disabilities.
- Both working groups have made their individual suggestions for how the legislation should be changed.
- The both drafts are now under a wide consultation for the civil society and other interested parties and no final decisions or changes have been made yet.
- The both working groups suggest that the changes would enter into force 1 June 2023.

The working group of ministry of justice – main suggestions

- 1) To make obligatory for the early childhood education to promote equality and to prepare a individual plan for promoting equality for example for day care centers.
→ This promotes the understanding of diversity for the staff and children can also be involved in preparing the plan.
- 2) To change the definition for the harassment so, that it can also be aimed at the group of people besides an individual person.
- 3) To emphasize that in early childhood education, school or education there is a duty to address harassment if there is knowledge that it is taking place in these facilities.
- 4) To make possible for the Non-Discrimination Ombudsman or other equality promoting party to take an issue to the National Non-Discrimination and Equality Tribunal without an individual, who would be a victim of claimed discrimination.

The working group of ministry of justice – main suggestions

5) Two changes to the reasonable accommodations:

- First, a reasonable accommodation could in some cases also extend to the content of the service, for example social benefit, employment service etc.
- Second, when considering a reasonable accommodation the first and the primary step should be to take into account the need of the person with disabilities and then consider all the other factors.

→ Behind these changes was CRPD committee's general comment no. 6 on equality and non-discrimination and also rulings of the Supreme Administrative Court of Finland.

6) Perhaps the biggest suggested change would be, that the National Non-Discrimination and Equality Tribunal could grant a compensation for the victim of discrimination. Currently the victim of discrimination has to make a claim for the compensation at the district court and there has been very few cases during the current law.

7) Also other smaller changes.

The working group of ministry of economic affairs and employment

- The discussion at the working group of ministry of economic affairs and employment focused on the issue, if the Non-Discrimination Ombudsman and the National Non-Discrimination and Equality Tribunal should have competence on the surveillance of the discrimination (according to the Non-Discrimination Act) of the individual cases of working life.
- Currently their competence does not include individual discrimination cases of working life according to the Non-discrimination act.
- The working group was very divided since many considered that the competence should be extended to working life but also many were against that change and considered that the current situation where the occupational safety and health authorities supervise the individual cases of working life is working well enough.
- The working group is not suggesting that the competence should be extended. It is suggesting other smaller changes.

How do the changes promote equality and benefit people who are discriminated against?

- One could always claim that this reform did not take big enough steps to prevent discrimination and promote equality, but the aim was to take steps towards a better and more effective legislation.
- If the reform will proceed in the Finnish political system and become actual legislation, it is a step forward.
- The early childhood education is important since it is important that children receive equal treatment and learn about it since the beginning.
- The changes considering reasonable accommodations are not major but still we see that they are better in line with the CRPD and the committee's comments.
- If the National Non-Discrimination and Equality Tribunal could grant a compensation for the discriminated party, it could send a stronger message against discrimination. At the moment The Tribunal may issue injunctions and orders and confirm a conciliation settlement between the parties to a case, and also impose a *conditional fine* in order to enforce its injunction or order.

Thank you!

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