

Case 26/2008 – Municipality did not act contrary to the prohibition against discrimination because of ethnicity and/or national origin in Section 4 of the Gender Equality Act by not calling the Claimant in for interview for positions as project employees.

A man, who was originally from Iran, but who has lived in Norway since 1991, applied for temporary positions as project employee at a qualifying centre in a district of a Municipality. He was not called in for interview for the positions.

The Tribunal pointed out that the discrimination prohibition applied to all parts of the employment process, including the choice of interview candidates.

The Tribunal found that there were circumstances present in the case that gave reason to believe that the Claimant's ethnicity and/or national origin had been attached weight in the decision not to call him in for interview.

The Tribunal referred to the fact that the claimant was qualified for the positions. He met the requirements set forth in the text of the advertisement regarding education and work experience. The Municipality had a mandatory plan of actions to be taken, in which was stated that at least one qualified applicant with origins from a non-Western country should be called in for interview. Since all the four applicants who were called in for interview had origins from a Western country, the Municipality had broken the internal guidelines in the plan of actions to be taken.

The burden of proof thereby rested with the Municipality, which had to render probable that it had only attached weight to other circumstances than ethnicity and national origin in the choice of interview candidates.

The Tribunal found that the Municipality had provided a credible explanation that the central criterion for choice of interview candidates was whether the applicants had work experience with the relevant user group. Further, the Tribunal found it probable that the applicants who were called in possessed better work experience with the relevant user group than the Claimant. The Claimant had previously applied for positions in the same district, and been employed by the same persons who had now considered who should be called in for interview. He had also received a good reference from these persons. This indicated that the Claimant's ethnicity and/or national origin had not had negative weight attached.

Therefore, the Municipality had not acted contrary to the prohibition against discrimination because of ethnicity in Section 4 of the Gender Equality Act.

The decision was unanimous.