

The Ombudsman

Presentation by Mr. Hans Ytterberg at ERA, Trier, 3 May 2005 - Summary

The Office of the Ombudsman against Discrimination on grounds of Sexual Orientation is a Swedish Government agency as well as a national human rights institution. The Office of the Ombudsman was created by an Act of Parliament that entered into force 1 May 1999. The Ombudsman is appointed by the Government for a term of office of six years. More information about the Office of the Ombudsman can be found at www.homo.se.

The overall task of the Ombudsman is to combat homophobia and discrimination on grounds of sexual orientation in all areas of Swedish society. This means enforcing the general principle of non-discrimination as well as enforcing specific statutory anti-discrimination law. Such law exists at the moment with respect to employment, higher education and the provision of goods and services. The Ombudsman is also commissioned to give advice and support to individuals who feel that they have suffered discrimination on grounds of sexual orientation. Sexual orientation means homosexuality, bisexuality and heterosexuality. Furthermore, the Ombudsman proposes anti-discrimination measures to the Government and gives opinions on draft legislation, conducts information and education efforts with respect to discrimination on grounds of sexual orientation and monitors international developments in this field.

Statutes that govern the work of the Ombudsman are the *Sexual Orientation Discrimination Prohibition (Employment) Act (1999)*, the *Equal Treatment of Students at Universities Act (2001)*, the *Discrimination Prohibition (Goods and Services) Act (2003)* and the *Government Decree with Instructions for the Office of the Ombudsman against Discrimination on grounds of Sexual Orientation (1999)*.

All the statutes prohibit direct and indirect discrimination, harassment and instructions to discriminate as well as victimisation (reprisals) as a consequence of having made a complaint or having taken part in an investigation of a complaint. The Equal Treatment of Students at Universities Act also obliges universities to actively promote equal rights for all students regardless of e.g. sexual orientation, int.al. by adopting a yearly equality plan. The Office of the Ombudsman is commissioned to oversee and enforce also these obligations.

Examples of discrimination dealt with by the Ombudsman in the area of *employment* are:

- Discriminatory collective agreements on pension benefits for civil servants
- Discriminatory collective agreements on benefits for the Diplomatic Corps
- Discriminatory guidelines for appointment to certain positions within the Armed Forces
- Harassment during hiring process
- Harassment in the work place
- No extension of temporary “trial” employment contracts

Examples of discrimination dealt with by the Ombudsman in the area of *education* are:

- Secondary school student harassed by teacher
- Students barred from school dance event
- Harassment during vocational training / practical work experience
- Discriminatory content in literature / educational materials
- Insulting or degrading content in university lectures

Examples of discrimination dealt with by the Ombudsman in the area of *goods and services* are:

- Discrimination within public health care system
- Degrading treatment of patients within public health care system
- Housing
- Real Estate
- Airline travel
- Entrance fees to museums
- Couples turned away from restaurants
- Discriminatory requirement of hiv-testing by insurance company
- Sexual orientation hate crime not investigated or not prosecuted
- City councils refusing to nominate registrars for registered partnerships

The results of the Ombudsman's inquiries can vary greatly, including:

- the problem complained of being solved in the process of the inquiry,
- the Ombudsman's initiating litigation in court on behalf of the complaining party,
- the reaching of out of court settlements providing for e.g. financial compensation to the complainant, extension of apologies or a commitment to undertake educational efforts in order to avoid reoccurrence of discrimination,
- critical observations without further action taken, or
- the finding of no fault.

An attempt to summarise the impact of the work of the Ombudsman over the past six years would be this. A radically higher level of awareness in general in Swedish society of the fact that discrimination on grounds of sexual orientation is a violation of human rights and the human dignity of individuals. The Ombudsman has gone from being a 'lone ranger' to a coordinating driving force in relation to many other actors in society that are now actively involved in work against sexual orientation discrimination, e.g. the social partners, human rights organisations, local governments, schools and universities, researchers and academics, law enforcement bodies and the Armed Forces, other government agencies, private businesses and employers.

One lesson learned is that law alone cannot do away with prejudice and discrimination but that good law, access to justice and a public body that can effectively act as a coordinating driving force goes a long way to combat discrimination and promote equality in dignity and rights for all, regardless also of sexual orientation.