

Women file complaints on multiple discrimination - an intersectional analysis of the Annual Report 2014

50 percent of all discrimination complaints submitted to the Swedish Equality Ombudsman are filed by women. However, only 14 percent of these complaints involved sex discrimination. Women are, in other words, the subjects behind an important part of all complaints on the various discrimination grounds.

A total of 1 949 complaints concerning discrimination were filed with the Ombudsman's office in 2014. The main grounds for complaints are ethnic belonging, followed by disability, age and sex. The statistics are similar to previous years, but in 2014 the numbers of complaints concerning age discrimination for the first time exceeded the numbers of complaints concerning sex discrimination, and age is a ground for complaints that often coincides with sex.

250 complaints concerning sex discrimination reached the Ombudsman's office in 2014. Most complaints deal with the labour market, but other important areas are schools, social services, goods and services, housing, health care or discriminatory treatment by public officials.

The concrete issues in the complaints concerning sex discrimination in the labour market relate mainly to pregnancy, mistreatment in relation to parental leave or sexual harassment. In many of these cases the Ombudsman can reach good results in court or through settlements, because the situation is quite clear with visible dates, facts and conflict matters.

In contrast to these complaints the Ombudsman has found that most discrimination cases are rather unclear in character. The report "Parts of patterns", published in August 2014, where all incoming complaints concerning discrimination during half a year have been analysed in detail, show long chains of interaction between subtle forms of violation and formal mistreatment. Years of mixed experiences of unfairness and discrimination mark many of the stories, and it can be very hard for the complainant to see who is the perpetrator or who is the responsible party. These "patterns" are an important explanation for the difficulty the Ombudsman often faces when investigating these complaints or going to court.

Another interesting thing to note is that women are more often than not the complainant in the cases concerning discrimination that the Ombudsman takes to court. 50 percent of all received complaints concerning discrimination are filed by women. Yet, only 14 percent of these complaints are reported as involving the ground of sex discrimination. Women are, in other words, the subjects behind an important part of all complaints concerning discrimination, and this goes for all the seven discrimination grounds in the Swedish

Discrimination Act. Many times sex coincides with another ground in an intersectional way. Here is a number of examples from the Ombudsman's Annual Report 2014.

Ethnic belonging and sex/gender

The Ombudsman reached a settlement with a Swedish authority in a case concerning a 57-year old woman born in Iran. The state acknowledged discrimination in recruitment on grounds of age and sex. The woman got 75 000 Skr in compensation.

The Ombudsman sued a hotel in a situation where it is asserted that a roma woman was mistreated when she wanted to get her breakfast as a hotel guest. The compensation claim is 20 000 Skr. A similar story concerns two roma women who were forced to prepay their food order in a restaurant.

The Ombudsman reached a settlement in a school matter where a girl had been forced to listen to derogatory jargon about her skin colour in combination with drawings of swastikas and sexist remarks on her desk. The municipality, as head of the school, acknowledged not fulfilling its duties to investigate and put a halt to the harassment, and paid the girl 80 000 Skr in compensation.

Religion and sex/gender

The Ombudsman reached a settlement concerning a college where a teacher harassed a young woman in front of her fellow mates. The teacher questioned the choice of the woman to wear a hijab and insinuated that she would be forced to marry by her parents. The college acknowledged discrimination on grounds of religion and sex and payed 45 000 Skr to the young woman.

The Ombudsman sued a dental school because it refused to accomodate a students wish to cover her arms. The dental school argues that hygiene and safety rules are the primary issue while the Ombudsman's view is that the matter can be solved by letting the student wear disposable sleeves.

Disability and sex/gender

The Ombudsman reached a settlement with an insurance company that denied a woman the possibility to sign a health insurance contract because she admitted to having Tourette's syndrome. The Ombudsman found that the insurance company had not made an individual investigation since the denial was based on an assessment that was too general. The company acknowledged discrimination and paid 75 000 Skr to the woman in compensation.

The Ombudsman reached a settlement with a restaurant that had mistreated a woman in a wheelchair and her sister. The two women got the message that one of them must abstain from alcohol because one of the women was using a wheelchair. The restaurant acknowledged discrimination and payed 25 000 Skr to each of the two women in compensation.

The Ombudsman also reached a settlement with a shipping company that acknowledged that a woman had been taken out of the group of possible recruits before the interviews because she had a multiple sclerosis diagnosis.

A fundamentally important court case during 2014 concerned discrimination on grounds of disability in social services. The municipality had mistreated a woman with a slight cognitive disability by not assessing her ability as a mother on an individual basis. The result was that the newborn child were taken from the parents by force. The court order was very clear in its principled argumentation about the need to make individual assessments and not to base formal decisions on generalisations. All three family members got 150 000 Skr each in compensation. As a total (450 000 Skr) this is a very high compensation for discrimination according to Swedish court decisions at the moment.

Sexual orientation, transgender and sex/gender

In cases concerning sexual orientation or transgender matters the content is often connected to traditional ideas about sex/gender and heterosexuality.

The Ombudsman has reached a settlement with a municipality/school where a boy was harassed on the assumption that he was gay. The municipality did not acknowledge discrimination or neglect of its responsibilities according to the Discrimination Act but all the same paid 60 000 Skr to the boy as compensation.

The Ombudsman reached a settlement with a department store where a manager harassed a male employee by giving him workwear designed for a woman. When the employee protested the manager hinted that the employee probably was a gay man and therefore should not mind wearing female workwear. The department store acknowledged discrimination and paid 20 000 Skr to the employee as compensation.

Two cases have been dealt with by the Swedish courts concerning lesbian women who were treated differently than heterosexual women would have been treated in similar situations. Both cases concerned assisted reproduction. In one case the court ruled that it was not a comparable situation because you cannot compare homo- and heterosexual women in the actual matter, something the Ombudsman still disputes. In the other case the Supreme Court ruled that the woman had been discriminated against by the regional health authority but the compensation was set very low - only 10 000 Skr.

Pay equity matters

The Equality Ombudsman in Sweden has received very few complaints concerning pay discrimination in recent years. The same trends are true for the Swedish trade unions, who have the first hand responsibility to act on member complaints in the labour market. The analysis says that it is very difficult to come to terms with pay discrimination through individual court cases.

Instead the Ombudsman has concentrated its work on pay discrimination to the Active Measures part in the Discrimination Act. The Ombudsman has the task

to supervise the employers concerning salary surveys and checking their pay equity plans. An evaluation of the former "One million wages"-campaign, performed by the Equal Opportunities Ombudsman for gender equality 2006-2008, came to the conclusion that 80 percent of the employers involved in that supervision still tried to follow the lessons learned and that they did perform active analyses of pay policies and pay differences. But many employers do not fully understand the concept of work of equal value, and therefore still have problems performing transparent and gender conscious salary surveys, thus hindering the setting up of good pay equity plans.

To support the legal responsibilities of the employers the Ombudsman has developed an E-guide for pay equity plans.

<http://www.do.se/sv/Material/E-handledning-lonekartlaggning/>