



HAND IN HAND

FAIRNESS SHAPES SOCIETY



Antidiskriminierungsstelle
Steiermark



PREFACE

DISCRIMINATION HURTS – REGARDLESS OF ITS GROUNDS!

In Austria there are many different legal frameworks and policies that prohibit discrimination: The Austrian Constitution, the Federal Law on Equal Treatment of Men and Women, the various Provincial Equality Acts such as the Styrian Equal Treatment Act, the Viennese Anti-discrimination Act, the Lower Austrian Equal Treatment Act, the Federal Act on the Equalization of Persons with Disabilities, the Introductory Act relating to the Act on Administrative Procedures- EGVG, etc.

This great diversity of statutory rules and regulations can make it very difficult for an individual to decide on what action to take and course to follow in order to defend himself/herself against discrimination.

The staff members at the Anti-Discrimination Office Styria (Antidiskriminierungsstelle Steiermark) have therefore taken

on the task of offering counseling and support to all clients who have been discriminated against. We present possible steps to be taken, accompany you throughout the process of re-claiming your rights or refer you to the appropriate agency, service or organization most qualified to support and assist you in your particular request in the event that we cannot assist you.

The reasons behind discrimination are just as diverse as the anti-discrimination laws themselves. In order to give you an overview of the various grounds of discrimination, we are listing them here, and will explain the relevant social context and mention some specific examples. If there are court rulings corresponding to the examples, we provide the internet link in brackets, which will take you to the respective websites where you can read the complete ruling online (www.curia.europa.eu for ECJ-rulings or www.ris.bka.at for rulings of Austrian courts, www.frauen.bka.at for rulings of the Austrian Equal Treatment Commission or www.klagsverband.at for cases of the Litigation Association).



DISCRIMINATION ON THE GROUNDS OF GENDER

EXAMPLES:

A woman earns less for the same type of work than her male colleague.

An insurance company charges higher premiums for women in their health insurance policies, in particular because of the potential “risk” of pregnancy (EC-ruling of March 1, 2011 – Rs C 236/6 Test-Achats).

A woman wants to become a rescue diver with the firefighter service. The main criterion for admission is lung volume. The required minimum value in the lung function capacity test is based on the average male lung capacity. The woman avoids applying for the job because she believes that she will not be able to meet this requirement.

The discrimination of people on grounds of and in connection with their gender is a form of sexist discrimination. The issue of gender serves as an excuse for the male majority to define women and transgendered persons as “not-belonging” to a determined group. The consequence is that women and transgendered persons are excluded from their rights and access to resources. The concrete implications of gender discrimination for the individual then become evident in unfavorable developments in the access to the labor market, in searching for accommodation, in access to goods and services as well as in (non-) participation in economic and political power-sharing.



DISCRIMINATION ON THE GROUNDS OF SKIN COLOR

EXAMPLES:

A dark-skinned man is refused entry to a club because of his skin color. (see ZRS Vienna 36R198/10z of August 30, 2010).

A graduate of a higher level technical secondary school (HTL) with dark skin applies for the job of a software developer through an employment agency. The company inputs the woman's personal information into their system and consequently continuously sends her job offers for unskilled labor in the cleaning sector.

The discrimination of people on grounds of and in connection with their skin color is a form of racist discrimination. Skin color serves as an excuse for the white majority population to define "non-white" persons as "foreign" and as "not-belonging" to their group. The consequence is that these persons are excluded from their rights and access to resources. The concrete implications of racial discrimination for the individual become evident in barriers in the access to the labor market, in searching for accommodation, in the access to goods and services as well as in (non-) participation in economic and political power-sharing.



DISCRIMINATION ON THE GROUNDS OF ETHNIC ORIGIN

EXAMPLES:

The director of a company says in public that he does not want to hire people of a foreign ethnic origin, because his customers would object (ECJ–ruling of July 10, 2008 Rs C 54/07 Feryn).

A woman who wants to purchase car insurance is told that she will have to pay higher insurance premiums because she is not of Austrian origin.

A married couple from Turkey wants to rent an apartment but is refused by the landlady because of her assumption that because of their “culture”, the couple will host too many guests in the apartment (see Equal Treatment Commission III/3/05).

The discrimination of people on grounds of and in connection with their ethnic origin is a form of racist discrimination. The actual or assumed “non-native” ethnic origin of individuals serves as an excuse for the male majority to define them as

“foreign” and as “not-belonging” to their group. The consequence is that these persons are excluded from their rights and access to resources. The concrete implications of ethnic discrimination for the individual become evident in barriers in access to the labor market, in searching for accommodation, in the access to goods and services as well as in (non-) participation in economic and political power-sharing.

Ethnicity has replaced the term „race“ which formerly was used in this context since it has been recognized that “race” is a scientifically incorrect term to differentiate groups of people. The term “ethnicity” or “ethnic origin or background” is closely connected to the term “culture” as ethnic groups are defined according to the actual or assumed common cultural background of their members.



DISCRIMINATION ON THE GROUNDS OF SOCIAL ORIGIN, PROPERTY AND BIRTH

EXAMPLES:

Pupils with learning disabilities such as dyslexia, dyscalculia or attention deficit disorder and whose parents are socially disadvantaged are often bullied (mocked, rejected and insulted) at school (see 31st . report of the People's Advocate's Office 2008, P. 333f).

A child from socially disadvantaged parents does not receive educational support and attention from teachers to the same degree as a child from wealthy parents, because the teachers assume that the child has neither potential nor capacity and their personal development is not worth encouraging.

All underprivileged children from socially disadvantaged families are segregated and put together in a separate class ("lower level class").

In a training course for unemployed job-seeking adults, a long-term unemployed man with a high school diploma and work

experience as an unskilled laborer in the metal industry did not receive the same amount of attention and counseling from the trainer as the unemployed woman with a university degree and professional experience as a social worker.

The discrimination of people on grounds of and in connection with their social origin, property and birth is a form of class discrimination. The actual or assumed belonging of individuals to the less affluent middle- or lower class serves as an excuse for members of the more affluent middle- and upper class to label them as "poor" and as "not-belonging" to their group. The consequence is that these persons are excluded from their rights and access to resources. The concrete implications of class, property or birth discrimination for the individual become evident in barriers in the access to the labor market, in searching for accommodation, in the access to goods and services as well as in (non-) participation in economic and political power-sharing.



DISCRIMINATION ON THE GROUNDS OF GENETIC TRAITS

EXAMPLE:

In the context of an interview in a job application process, the applicant is asked to take a genetic test. The test results show that the applicant runs an above-average risk of being diagnosed with cancer. Consequently the employer does not hire the applicant.

In the future genetic traits will play an ever more important role in the framework of genetic diagnostics: Genetic data can be used in the prognosis of certain diseases. This poses the risk of discrimination against people with certain prognoses concerning their access to the labor market or in receiving insurance coverage.

DISCRIMINATION BASED ON GROUNDS OF LANGUAGE SKILLS



think

EXAMPLES:

A mother using public transportation talks to her child in Arabic and is insulted and offended by another passenger for doing so.

In a job advertisement, “perfect German skills” are listed as a criterion for hiring. The ad does not indicate any further specifications as to why language skills to the level of fluency are needed for the job.

The discrimination of people with a first language other than German is a form of class discrimination. The fact that some people have a lower command of German due to having learned it as a second or third language serves as an excuse for the “well educated” majority whose German language skills can be described as “highly proficient” to define them as “uneducated” and as “not-belonging” to their group. The consequence is that these persons are excluded from their rights and access to resources. The concrete implications of language discrimination for the individual become evident in barriers in the access to the labor market, in searching for accommodation, in the access to goods and services as well as in (non-) participation in economic and political power-sharing.



DISCRIMINATION ON THE GROUNDS OF RELIGION

EXAMPLES:

A female Muslim medical doctor wearing a headscarf applying for a position in a sanatorium is promised the job on the condition that she agrees to take off the headscarf when working with patients (case of the Litigation Association and Equal Treatment Commission II/22).

A mother wants to register her child at a daycare. The daycare refuses to take the child because it is Muslim (GBK III/31/07).

The discrimination of people on grounds of their religion in Austria is mainly comes in the form of anti-Islamic racist discrimination. The affiliation of individuals with a non Christian-Catholic religion serves as an excuse for the Christian- Catholic majority to define them as “foreign” and as “not-belonging” to their group. The consequence is that these persons are excluded from their rights and access to resources. The concrete implications of religious discrimination for the individual become evident in barriers in the access to the labor market, in searching for accommodation, in the access to goods and services as well as in (non-) participation in economic and political power-sharing.

A photograph of two hands shaking in a firm grip. The hand on the left has a large, colorful tattoo on the forearm. The hand on the right is wearing a blue and white checkered shirt. The background is dark and out of focus.

DISCRIMINATION ON THE GROUNDS OF IDEOLOGY, BELIEF, POLITICAL OR ANY OTHER OPINION

EXAMPLES:

A person is privately active in a political party and is therefore not considered by the employer as a potential candidate to receive a raise (see Assessment Equal Treatment Commission II of February 2010).

A person is convinced of an alternative economical system, takes part in demonstrations for it and makes public statements in the media concerning his/her views on it. As a consequence the person is let go by his/her employer.

A person is rejected in an application process because of his/her political views.

While all religious beliefs are subsumed under the term “religion”, “ideology” includes all non-religious beliefs, non-religious views of the world which in their approach contextualize the concepts of life and the world as an essential unity of meaning.



DISCRIMINATION ON THE GROUNDS OF MEMBERSHIP IN A NATIONAL MINORITY

EXAMPLES:

The percentage of Roma pupils in special needs schools in an Austrian region is at 50.3% while as few as 1.8% of the children belonging to the (non-Roma) majority population attend special needs schools (European Court of Human Rights (ECHR) – ruling of November 13, 2007- D.H. and others vs. Czech Republic.

Pupils of a recognized national minority are denied education in their mother tongue.

In meetings and conferences, Roma are more often invited as part of a folkloristic supporting program than as participants.

The discrimination of people on grounds of their membership in a national minority is a form of racist discrimination. The fact that individuals are part of a nationally recognized minority serves as an excuse for the majority population to define them as “foreign” and as “not-belonging” to their group. The consequence is that these persons are excluded from their rights and access to resources. The concrete implications of this kind of racial discrimination for the individual become evident in barriers in the access to the labor market, in searching for accommodation, in the access to goods and services as well as in (non-) participation in economic and political power-sharing.

In Austria, Croat, Hungarian, Slovene, Czech, Slovak, Roma and Sinti ethnic groups are recognized national minorities.



DISCRIMINATION ON THE GROUNDS OF DISABILITY

EXAMPLES:

A person with a hearing impairment is excluded from the internal information flow of the very company that employs them. As one of the consequences nobody explains new work procedures to this staff member (see Litigation Association Redress Procedure).

The mother of a child with physical disabilities is let go by her employer because she cannot work overtime due to the limited hours of the special needs childcare facility.. (see ECJ-ruling of July 17,2008 Rs C 303/06 Coleman).

A man in a wheelchair can only access the men's bathroom by passing through the women's bathroom.

The application of a person in a wheelchair for an office position (desk work) is rejected, because of their disability.

A child with a mental disability is refused Communion in a church service.

The inclusion of a child with a disability is rejected in a remedial class.

The discrimination of people on grounds of disability is a form of ableist discrimination. The fact that individuals have a disability serves as an excuse for the majority to define them as “not-belonging” to their group. The consequence is that these persons are excluded from their rights and access to resources. The concrete implications of ableism for the individual become evident in barriers in the access to the labor market, in searching for accommodation, in the access to goods and services as well as in (non-) participation in economic and political power-sharing.

The prohibition of discrimination on the grounds of disability includes all forms of physical, mental, psychological, and sensory discrimination irrespective of the degree of the disability.



DISCRIMINATION ON THE GROUNDS OF AGE

EXAMPLE:

A staff member of an airline is let go on the grounds of his advanced age. The person is a pilot who turned 60 and the company policy prohibits the employment of pilots above the age of 60 (ECJ-ruling of September 13, 2011 Rs C 447/09 Prigge).

The discrimination of people on the grounds of age is ageism in the form of anti- youth and anti-elderly discrimination. Individuals being younger than 25 or older than 50 presents an excuse for the majority (people aged 25 to 50) to define them as “not yet belonging” or as “no longer belonging” to their group.

The consequence is that these persons are excluded from their rights and access to resources. The concrete implications of ageist discrimination for the individual become evident in barriers in the access to the labor market, in searching for accommodation, in the access to goods and services as well as in (non-) participation in economic and political power-sharing.



DISCRIMINATION ON THE GROUNDS OF SEXUAL ORIENTATION

EXAMPLES:

Two homosexual men want to rent an apartment and are turned away (European Court of Human Rights (ECHR), July 24, 2003 Karner/A).

After having come out to his colleagues as a homosexual, a staff member of a company is harassed with heterosexist statements and obscene abuse (Regional Court of Salzburg GZ 18 Cg 120/05t and 18 Cg 121/05i).

The discrimination of people on the grounds of sexual orientation is a form of heterosexist discrimination. The fact that individuals are homosexual or bisexual serves as an excuse for the heterosexual majority to define them as “not-belonging” to their group. The consequence is that these persons are excluded from their rights and access to resources. The concrete implications of heterosexist discrimination for the individual become evident in barriers in the access to the labor market, in

searching for accommodation, in the access to goods and services as well as in (non-) participation in economic and political power-sharing. The heterosexual majority “tolerates” and “reserves” certain small areas for homosexuality in the public sphere: Namely the “flamboyant”, “colorful” and “loud” types of events, which are accepted because they entertain the “not so flamboyant” heterosexual norm.

A closer look at their legal and social positioning in society at large quickly and blatantly reveals the actual level of discrimination against homosexuals. In the recognition of homosexual marriage there are still deficiencies in some EU- member states and EU- Council states. In the adoption laws of some EU- member states and EU- Council states, heterosexual couples are still given preference over homosexual couples. A working environment in which homosexuals do not have to hide their sexual identity remains the exception than the rule. More often than not the fear of bullying, harassment and even firing is legitimate and therefore difficult to overcome.

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LAYOUT & PRODUCTION

achtzigzehn – Agentur für Marketing und Vertrieb GmbH
Andreas-Hofer-Platz 15 | 8010 Graz | www.holding-graz.at

PRINTED AND BOUND IN GRAZ BY

Medienfabrik Graz | Dreihackengasse 20 | 8020 Graz | www.mfg.at

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First Edition, April 2013