

Equal treatment in provincial and municipal services

General information

In matters relating to the service law for provincial and municipal employees, those exercising their right to the free movement of workers must not be discriminated against on the grounds of ethnicity, religion or ideology, age, sexual orientation, gender, disability or nationality.

Acts of direct or indirect discrimination and harassment on the aforementioned grounds, as well as restrictions on the free movement of workers under European Union law, are prohibited. This does not cover differences in treatment on the grounds of nationality, provided that these are prescribed by law or are otherwise objectively justified and do not conflict with European Union law. Moreover, justified differences in treatment do not constitute discrimination.

Neither the rules applicable to emoluments and remuneration, nor the application of such rules, may impose or use criteria that give rise to discrimination.

In the event of violations of the prohibitions on direct or indirect discrimination or on restriction, the persons affected are entitled to compensation for the financial damage and personal injury suffered. In the event of violations of the prohibition on harassment, there is a right to compensation for the damage suffered. Such claims must be lodged against the province or municipality. A person who claims to have suffered discrimination must provide satisfactory evidence of this. It is for the opposing party to prove, in consideration of all the circumstances and on the balance of probabilities, that none of the unlawful grounds of discrimination were material to the treatment or that the facts alleged by the opposing party are untrue.

Persons exercising their rights or lodging a complaint on the basis of an alleged violation of the principle of non-discrimination may not be disadvantaged in any way as a result of such action.

There are special provisions on legal protection for employees whose employment relationship was not established due to a violation of the principle of non-discrimination, who were unable to progress their career due to a violation of the principle of non-discrimination, who were discriminated against in connection with the granting of voluntary social benefits in respect of training and further training measures or other working conditions, or who were dismissed in violation of the principle of non-discrimination.

The employer must take appropriate measures that are deemed necessary in the specific case to enable persons with disabilities to have access to employment relationships, to carry out official duties, to progress their careers and to take part in training and further training, unless such measures would entail a disproportionate burden on the employer or would be legally inadmissible.

Dates and deadlines

All claims for compensation must be made within 6 months of the date on which the act of discrimination became known. This deadline will be suspended for a maximum of

6 months while the anti-discrimination body examines the alleged violation of the principle of non-discrimination on the basis of a complaint by the person affected.

Competent body

Provincial Ombudsman (*Landesvolksanwalt*) as the anti-discrimination body

Procedure and outcome

Procedure of the anti-discrimination body:

Employees affected by discrimination have the option of contacting the Provincial Ombudsman as the anti-discrimination body. The Provincial Ombudsman must advise the affected person, carry out investigations and checks, compile reports and make recommendations.

The person alleging to have been discriminated against has the right to be represented before the anti-discrimination body by a person whom they trust. On request, a representative of an organisation nominated by the disadvantaged person (advocacy group, not-for-profit association) will be consulted for information.

In the event of an alleged violation of the principle of non-discrimination, the anti-discrimination body may request that a written report be submitted by the legal entity to which the alleged direct or indirect discrimination or restriction is attributable or within whose area of competence harassment occurred.

A legal entity to which any direct or indirect discrimination or restriction is attributable must grant the anti-discrimination body access to the file and provide information upon request, insofar as this is necessary to investigate possible acts of discrimination.

Any official secrecy obligations do not apply in dealings with the anti-discrimination body. The anti-discrimination body is bound by confidentiality to the same extent as the legal entity it has approached.

If the anti-discrimination body finds that the principle of non-discrimination has been violated, it must inform the legal entity concerned and ask it to take all necessary steps to put an end to the discrimination; it may also work towards mutual redress.

Legal basis

Anti-Discrimination Act (*Antidiskriminierungsgesetz*)

Body responsible for the content

Amt der Vorarlberger Landesregierung, Abteilung Personal, Römerstraße 15,
6900 Bregenz

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Data protection information

General information on the processing of personal data can be found on the homepage of the Province of Vorarlberg (<https://vorarlberg.at/web/land-vorarlberg/datenschutz>)

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