

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

D. S. v. Sweden

Communication No. 21/2001

10 August 2001

CERD/C/59/D/21/2001

ADMISSIBILITY

Submitted by: D. S. (name deleted)

Alleged victim: The petitioner

State party concerned: Sweden

Date of communication: 9 July 2001

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 10 August 2001,

Adopts the following:

Decision on Admissibility

1. The petitioner (initial submission dated 9 July 2001) is D. S., a Swedish citizen of Czechoslovak origin, born in 1947, currently residing in Solna, Sweden. She claims to be a victim of violations by Sweden of articles 2, paragraph 2, 5 (e)(i) and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination. The petitioner is not represented by counsel.

The facts as submitted by the petitioner:

2.1 On 30 November 1999, the petitioner applied for a position as 'an investigator' at Ungdomstyrelsen in Stockholm. This organisation carries out, among other things, investigative studies at the request of the Government or on its own initiative, on the conditions of life of young people. The vacancy announcement said that it was looking for two new staff members and that the requirements were a university degree in social science, experience of public investigative work,

knowledge of the methodology of investigation, English, and experience using statistical material. Experience in research work and in development, follow-up and evaluation were also required. Good knowledge of oral and written Swedish and ability to co-operate and work independently were also prerequisites for the posts.

2.2 Ungdomstyrelsen decided to appoint A. K, I. A, and S. Z to the posts. It appears that a third post was also made available after the announcement. On 6 March 2000, the petitioner appealed the decision to the Government claiming that she had been discriminated against.

2.3 On 6 July 2000, the Government rejected the petitioner's appeal. The Government did not give reasons for the decision. The petitioner appealed against this decision as well and this appeal was similarly dismissed, on the ground that the Government's decision, of 6 July 2000, could not be appealed and that there was no other reason to re-examine the petitioner's appeal.

2.4 The petitioner also filed a complaint with the Ombudsman against Ethnic Discrimination who refused to take any action in her case, as he claimed that it had no merits. The Ombudsman stated that Ungdomstyrelsen chose individuals for the post on the basis of their education, and professional experience and saw no reason to question the employer's judgement. The petitioner states that she has not brought the case to the District Court as she claims that the new law against ethnic discrimination does not apply to individuals who allege discrimination at the recruitment stage, and even if it were applicable she could not afford to do so.

The complaint:

3. The petitioner claims that she has been discriminated against by Sweden on the basis of her national origin and her status as an immigrant, in the refusal by Ungdomstyrelsen to offer her a job. In this context, she objects to the Ungdomstyrelsen's decision to offer the jobs in question to A. K, I. A, and S. Z, all of Swedish origin, who she claims are less qualified than she for the post.

Issues and proceedings before the Committee:

4.1 Before considering any claim contained in a communication, the Committee on the Elimination of all Forms of Racial Discrimination must decide, pursuant to article 14, paragraph 7(a), of the Convention, whether or not the current communication is admissible.

4.2 The Committee notes that, although the petitioner was aware that she could have challenged the decision in the District Court not to appoint her to the vacant post, she did not do so, as she believes that the legislation is deficient and claims that she could not afford to take such an action.

4.3 The Committee concludes that, notwithstanding the reservations that the petitioner might have regarding the effectiveness of the current legislation to prevent racial discrimination in the labour market, it was incumbent upon her to pursue the remedies available, including a complaint before the District Court. The Committee recalls that doubts about the effectiveness of such remedies, does not absolve an petitioner from pursuing them. With respect to the petitioner's claim that she could not issue proceedings in the District Court due to lack of funds, the Committee notes that the petitioner has provided no further information in this regard and therefore cannot conclude that the

expenses involved would have been a grave impediment excusing her from the obligation to exhaust domestic remedies.

4.4 In light of the above, the Committee considers that the petitioner has failed to meet the requirements of article 14, paragraph 7 (a), of the Convention.

5. The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be communicated to the petitioner and, for information, to the State party.