THE NATIONAL NONDISCRIMINATION AND EQUALITY TRIBUNAL/Section

Religion, belief, school, direct discrimination, promotion of equality

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In spring 2023, a school arranged a concert for all pupils during a school day in which the artist was a known missionary and a performer of religious music. Based on the information received on the content of the concert, the principal of the school had assumed that the concert was suitable for all pupils regardless of their religion or belief. Only during the concert had it become clear that the concert consisted of religious music. On the basis of the report presented, the Tribunal considered it undisputable that the concert had ultimately been an opportunity to practise Christianity.

The National Non-Discrimination and Equality Tribunal was of the opinion that by organising a denominational event and not providing corresponding alternative activities for it, the school had in practice treated the applicant less favourably on the basis of religion or belief than the pupils whose religion had been in line with the event. The Tribunal was of the opinion that there was a presumption of direct discrimination against the applicant because of their religion or beliefs.

The respondent argued that they had not intended to organise an opportunity to practise a religion. Instead, the intention was to organise an event suitable for everyone. The Tribunal stated that the respondent did not therefore argue that their actions were based on law or that there was an acceptable objective for the actions. The Tribunal was of the opinion that consequently, the respondent's actions were a direct discrimination against the applicant on the basis of religion or belief and prohibited the respondent from repeating the discrimination. The Tribunal recommended that the respondent pay a compensation of EUR 1,500 to the applicant. In addition, the Tribunal was of the opinion that the school had neglected its obligation to promote the equality of pupils regardless of religion or belief when it had not properly ensured that the content of the event was universally humanist and thus suitable for all.

In autumn 2023, the city organised a concert at the applicant's school; the concert was similar those held for all pupils in the city on grades 1 to 6. The performer at the applicant's school was one that played several instruments simultaneously and sang, and the performer's name was mentioned in the notification about the concert. According to the information provided by the applicant, the performer is known as a performer of Christian music, but no other account of the performer's background had been presented. Based on the message sent to the guardian by the Communications Manager of Concert Centre Finland, the performer writes and performs non-religious songs about the lives of children and young people and the school concert consisted of such songs. The Tribunal was of the opinion that there was no presumption of discrimination and that the respondent's communication about the concert had to be considered sufficient from the perspective of the duty to promote equality.

The parish choir had performed at the school in 2024, and the choir activities of the parish were presented in this event. The performance was arranged during the school day for all the school's pupils on grades 3–6. The notification about the performance did not state that

attending the event was voluntary for all pupils, not just those whose school day had ended before the event. The Tribunal stated that advertising the activities of the parish in an event common for all, especially without informing the pupils' guardians about it in advance, was likely to put the pupils in an unequal position based on religion or belief, and at the very least did not promote equality of the pupils regardless of their religion or belief.

The Tribunal was of the opinion that the school had neglected its duty to promote equality insofar as it had failed to mention in its notification that the choir was a parish choir and the activities of the parish had been advertised in a common event. This assessment had to be made despite the fact that the performance of the choir was in itself suitable for everyone. The Tribunal obligated the applicant's school to take measures to promote equality.

(Final)

Background of the matter

In spring 2023, the applicant's school organised a concert that was assumed to be suitable for everyone regardless of religion or belief. However, the concert turned out to be denominational. Furthermore, in autumn 2023, the school also organised a concert that originally included a hymn, and in 2024, a performance by the parish choir that included a presentation of the parish choir activities.

The concert held in spring 2023 gave rise to a matter that was processed in the Office of the Non-Discrimination Ombudsman. Since the school issued a swift apology and a report on the follow-up measures taken to avoid such situations in the future, the Non-Discrimination Ombudsman considered that there is no risk of a recurrence or continuation of a discriminatory situation, and has closed the matter.

The applicant's demands

The applicant requests the Tribunal to recommend that the respondent pay the applicant a compensation of EUR 1,000 for discrimination against the applicant.

Justifications by the applicant

A concert was organised at the applicant's school in spring 2023. The first notification about the concert did not mention that the concert organised for the entire school is denominational, nor did it state that the partner organisation was apparently an Evangelical Lutheran parish. After the applicant's guardian asked about the event, the principal informed both the guardian and the entire school that the performer was a performer of Christian music and a missionary, but that the concert would be suitable for everyone.

In the messages sent to the applicant's guardian, the principal mentioned that there is a possibility of staying in the classroom doing something meaningful for the duration of the concert. However, the content of the alternative activities was not discussed in more detail, nor was it communicated to everyone. This demonstrates that the principal was aware that the content of the event was denominational, and that the principal failed to organise an actual alternative event. In such a

situation, not attending the event is clearly more stigmatising than when everyone has the opportunity to attend their preferred event from a selection of events with an equal status. The school has had similar situations in the past. For example, the alternative for attending an excursion organised by the parish that included watching the Christmas gospel was to stay at the school, attending a lesson of a class unknown to the pupil.

Based on the information they received, the applicant's guardian considered that there was no reason to suspect that the contents of the concert were denominational and so decided to allow the applicant to participate. However, strongly religious and denominational songs were performed in the concert on topics such as crucifixion, death and the forgiveness of sins through Christianity. At the time, the 8-year-old applicant was clearly confused by the distressing content. After the concert, the school sent a message to all guardians apologising for the situation. The deputy principal and the applicant's teacher also apologised to the applicant's guardian and identified an error in the way the alternative activities were arranged.

The National Non-Discrimination and Equality Tribunal should recommend that the respondent pay compensation to the applicant on the grounds that the communal event had only addressed those with one specific kind of belief, and that alternative activities were not organised in such a way that the choice between the events could have been made without expressing one's own beliefs. The amount of compensation must take into account the fact that the school has not changed its activities even after this occasion.

The school also organised a concert in autumn 2023, the performer of which, according to Wikipedia, was known as a performer of Christian music. The notification about the concert did not mention to the background of the performer or the fact that the concert had originally included a hymn that would have made the event a denominational one. However, the hymn had been omitted after the applicant's guardian had asked the organiser of the concert which pieces of music would be performed in the event. However, it would have been the school's duty to examine the contents of the concert.

Furthermore, in 2024, a choir performing religious music had performed at the school. The notification sent a day before the concert did not mention that the choir was associated with the parish, nor did the listing of the pieces of music to be performed indicate the nature of the event. The songs contained religious content as well. However, what is more problematic is that the choir activities of the parish were also advertised in the event, i.e. the event involved marketing of recreational activities organised by an ideological organisation directly to children. Since the notification lacked information on the organiser of the recreational activity and possible charges for the activity, the guardians were not able to assess these issues from the perspective of their own beliefs or financial situation. According to the instructions issued by the Finnish National Agency for Education, a school cannot, without the consent of the guardians, present recreational activities subject to a fee or organised by a company; recreational activities organised by parishes or other ideological organisations also fall under this category. The respondent's actions show that unlike they claim, they have not improved their communications or carefully assessed the content of the events proposed to them.

It should also be noted that in their response, the principal of the school has described a discriminatory practice in which children are removed in a punitive manner from events that are a part of education if the children feel that the content is too religious. The city's instructions provided by the respondent refer to, among other things, the "A peek to Easter and the Advent" events, which are considered suitable for everyone and are thus content that is part of education. The school's policy that a pupil can abstain from such content or other content that is part of education

by merely sending a notification must be considered questionable. Furthermore, the school has not communicated about “Peek” excursions appropriately, since the notification about the excursion was sent only a day before the actual excursion, and at that time the children had already been told about the excursion. Even at that time, the applicant’s guardian had only been informed that the excursion was suitable for everyone.

The principal has further suggested that performing an individual hymn does not make the school’s events religious. However, the guideline of the Finnish National Agency for Education on individual hymns only apply to joint celebrations at schools, not other events. In addition, the pupils of the school have not actually been given the opportunity to leave the celebrations during the hymns, and the hymns have been practised during lessons without informing the guardians.

The respondent’s answer

The respondent denies having discriminated against the applicant.

Justifications by the respondent

The respondent complies with the guidelines issued by the Finnish National Agency for Education and the city on the teaching of religion and worldview studies and on religious events. The instructions take into account the latest guideline of the Finnish National Agency for Education concerning the organisation of teaching of religion and ethics in basic education and worldview education in pre-primary education as well as joint celebrations and religious events in pre-primary education and basic education.

The respondent refers to a statement submitted by the school principal to the Non-Discrimination Ombudsman. According to the statement, the principal had decided to organise the concert as an event suitable for everyone after discussing about it and its possible denominational character with a principal of a school in another area. Since the performer of the concert was a missionary and a performer of religious music, the principal also discussed the nature of the event well in advance with the contact person. The contact person is a teacher by profession and thus knows the instructions for events of this kind. The principal instructed that the event cannot be denominational, unless an alternative programme exists. The principal suggested that the perspective of the event should be internationality, which was a topical theme in the school, and that the performer should tell the audience about their work abroad, differences and similarities, and perform songs from different countries.

According to the principal’s statement, the school sent a notification about the concert and specified the notification further after some guardians had contacted the school. Since the concert was considered suitable for everyone, no alternative programme was organised and offered for everyone and the guardians were not informed about it. However, the teachers were instructed to allow pupils to abstain from the event if their guardians did not want their child to participate in the concert. The pupils would have been be supervised and safe in other activities planned by a couple of teachers. In the end, however, the concert turned out to be a concert of religious music. The deputy principal sent a message to all guardians on the very same day. As a provider of education, the school must carefully consider the nature of each event, especially in so-called interpretative interfaces. It would certainly be more effective if the notification sent to the guardians also included the agenda of an event.

The respondent states that in contrast to the matter processed by the Non-Discrimination Ombudsman, the application presents a new issue, i.e. the concert organised in autumn 2023 by X and produced by the city's Cultural Path Programme as part of the Concert to Every School tour. This concert has been organised for all pupils in grades 1–6 of basic education in the city. The pupils' guardians were informed of the event in autumn 2023 by a message from the city's music coordinators.

The choir referred to by the applicant, on the other hand, performed in the school in 2024. When offering the performance, the choir leader had said that the songs were mostly film scores and folk music in languages other than Finnish, and that there would also be a few gospel-like songs. On the day before the performance, the principal sent the guardians a detailed list of the songs to be performed. The fact that the performer was a parish choir does not alone make the event denominational. The principal assessed that the songs performed did not make the event denominational, and according to the applicant's guardian, the songs themselves were not a problem.

The respondent states that pupils are not discriminated against in any occasion. However, the pupils' guardians have their own values and wishes that the school aims to implement. The guardians of the applicant and some other pupils interpret the matter from the perspective of their own set of values, which means that the interpretations may sometimes differ from the school's interpretations. For this reason, the principal of the school had also agreed with the choir leader that the order of presentation of the songs could be modified if someone felt that a song was too religious. In this context, it should also be noted that according to the guideline of the Finnish National Agency for Education, even an individual hymn does not make the event denominational.

Similar situations may occur at school in other situations that are not religious or denominational events. For example, a child's guardian might not necessarily want their child to participate in the flag hoisting ceremony or following the flag bearer at the Independence Day celebration. In such a situation, the pupils can join the celebration only after this section is over. Furthermore, some guardians do not want their children to participate in a film show or theatre performance, for example.

Presentation by the referendary

The National Non-Discrimination and Equality Tribunal finds that due to the actions of the educational institution maintained by the respondent, the applicant has been directly discriminated against on the basis of religion or beliefs, and forbids the respondent from repeating the discrimination. The Tribunal recommends that the respondent pay a compensation of EUR 1,500 to the applicant.

The Tribunal is also of the opinion that the educational institution maintained by the respondent has neglected its duty to promote equality insofar as it has not verified the suitability of the concert organised by its partner organisation for everyone and insofar as it has not communicated that it had organised the performance of the choir in cooperation with the parish and that the activities of the parish have been advertised at the event. The Tribunal obligates the applicant's educational institution to take measures to promote equality.

Framing of the question

The primary question in the matter is whether the applicant has been subjected to discrimination based on religion or belief. It should also be assessed whether the respondent or the educational institution it maintains, i.e. the applicant's school, has neglected its obligation to promote equality.

Grounds

Applicable rules of law

According to section 6 subsection 2 of the Constitution (731/1999), no one shall be treated differently from other persons on the ground of religion or conviction, for example.

According to section 11 subsection 1 of the Constitution, everyone has the freedom of religion and conscience. According to subsection 2 of the section, freedom of religion and conscience entails the right to profess and practice a religion, the right to express one's convictions and the right to be a member of or decline to be a member of a religious community. No one is under the obligation, against his or her conscience, to participate in the practice of a religion.

Under section 6 subsection 1 of the Non-Discrimination Act (1325/2014), the education provider and the educational institution maintained by it shall evaluate the realisation of equality in their activities and take necessary measures to promote the realisation of equality. These measures shall be effective, expedient and proportionate, taking into account the educational institution's operating environment, resources and other circumstances.

According to section 8 subsection 1 of the of the Non-Discrimination Act, no one may be discriminated against on the basis of religion or belief, for example.

According to section 10 of the Non-Discrimination Act, discrimination is direct if a person, on the grounds of personal characteristics, is treated less favourably than another person was treated, is treated or would be treated in a comparable situation.

According to section 13 of the Non-Discrimination Act, discrimination is indirect if an apparently neutral rule, criterion or practice puts a person at a disadvantage compared with others as on the grounds of personal characteristics, unless the rule, criterion or practice has a legitimate aim and the means for achieving the aim are appropriate and necessary.

According to section 28 of the Non-Discrimination Act, the person instituting the proceedings must present an account of facts, which the claim is based on, in the proceedings of the matter concerning discrimination or victimisation in a court or other authority. If it can be assumed on the basis of the clarification provided in the proceedings of the matter that the prohibition of discrimination or victimisation has been violated, in order to revoke the assumption, the adverse party must prove that the prohibition was not violated.

According to Article 14 of the UN Convention on the Rights of the Child (SopS 59–60/1991), States Parties shall respect the right of the child to freedom of thought, conscience and religion (paragraph 1). States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child (paragraph 2).

Under section 2 subsection 1 of the Basic Education Act (628/1998), the purpose of education is to support pupils' growth into humanity and into ethically responsible membership of society and to provide them with knowledge and skills needed in life. According to subsection 2 of this section, education shall promote civilisation and equality in society and pupils' prerequisites for participating in education and otherwise developing themselves during their lives.

According to section 3 subsection 3 of the Basic Education Act, those providing education shall cooperate with pupils' parents/carers.

According to section 14 subsection 2 of the Basic Education Act, the Finnish National Agency for Education shall determine the objectives and core contents of different subjects and cross-curricular themes, guidance counselling and other education referred to in this Act and the basic principles of home-school cooperation and pupil welfare under the purview of the local education authority (core curriculum).

Starting points for the assessment of the matter

The applicant has asked the Tribunal solely to recommend that the respondent pay compensation to the applicant for discrimination against them. The Tribunal notes that in order to recommend the payment of compensation, the Tribunal must find that the case involves discrimination. The National Non-Discrimination and Equality Tribunal is an independent legal protection body, so the Non-Discrimination Ombudsman’s view of the discriminatory nature of an act is not binding on the Tribunal. Therefore, the Tribunal must first assess whether the applicant is considered to have been discriminated against. Only thereafter will the Tribunal consider whether there is a need to recommend the payment of compensation.

Creation of a presumption of discrimination

The creation of a presumption of discrimination as referred to in section 28 of the Non-Discrimination Act requires that, on the basis of the facts presented by the person instituting the proceedings initiator or other facts brought up during the processing of the matter, it can be objectively assumed that the prohibition of discrimination has been violated. Full evidence of discrimination is not required. Instead, it is sufficient that the authority processing the matter has a legitimate presumption of conduct violating the prohibition of discrimination in view of the facts presented or brought up. (HE 19/2014 vp, p. 93)

Firstly, the Tribunal notes that the account presented does not clearly indicate the what the applicant’s religion or belief is. However, discrimination is prohibited on the basis of both religion and belief, and in practice, the difference between religion and belief is not always clear (HE 19/2014 vp, p. 66). On the basis of the account presented, the Tribunal also finds it clear that the applicant’s religion or belief is something else than Christianity recognised by the Evangelical Lutheran Church. Thus, the exact religion or belief of the applicant cannot be considered relevant for the assessment of the matter at hand.

The Tribunal will therefore assess whether the applicant has been discriminated against on the basis of religion or belief as a result of the actions of the educational institution maintained by the respondent. The applicant has stated that discrimination against them has occurred at an educational institution, i.e. due to a concert organised at the applicant’s school in spring 2023, which is why the assessment of the creation of a presumption of discrimination focuses particularly on this event. The Tribunal states that the creation of a presumption of discrimination does not require that the school’s actions had a discriminatory purpose, but that the actual consequences of the actions are significant.

The applicant's school arranged a concert during a school day for all pupils in which the artist was a known missionary and a performer of religious music. Based on the information received on the content of the concert, the principal of the school has assumed that the concert was suitable for all pupils regardless of their religion or beliefs. Only during the concert has it become clear that the concert consists of religious music. On the basis of the report presented, the Tribunal considers it undisputable that the concert has ultimately been an opportunity to practise Christianity.

In the view of the Parliamentary Ombudsman, an education provider must ensure that when cooperating with religious and ideological organisations external to the school, these actors comply with the regulations and guidelines issued on education (EOAK/1417/2019, pp. 30-31). As an education provider, the applicant's school has thus had to ensure that the performance implemented with the Christian partner organisation is actually suitable for everyone regardless of religion or belief. It has been stated that the principal of the school has investigated the nature of the event and also instructed the partner organisation that the event should be universally humanist. However, the event organised with the Christian partner organisation and held at the school was actually an event that can be considered as practicing Christianity.

According to the Finnish National Agency for Education's guideline, a religious event organised in connection with basic education must be organised separately from other activities, and there must always be alternative activities for it as a rule. Apart from the religious content, the nature and objectives of the alternative activities must be as similar as possible to those of the event that the activities replace. (Finnish National Agency for Education, Guideline on organising instruction of religion and culture, worldview and ethics in basic education and worldview education in pre-primary education as well as joint festivities and religious events in pre-primary and basic education, 19 September 2022, OPH-3903-2022, p. 8) In the matter at hand, the respondent has stated that the pupils have had the opportunity to abstain from the event and be under supervision during the concert. However, no corresponding alternative activities were arranged for the event.

The Tribunal further states that according to section 11 subsection 1 of the Constitution, no one is under the obligation, against his or her conscience, to participate in the practice of a religion. The Constitutional Law Committee has stated that freedom from religion applies to all citizens and is, in principle, independent of the membership of a religious community, because persons belonging to a religious community cannot be forced to participate in religious ceremonies (PeVL 12/1982 vp, PeVM 2/2014 vp, p. 3). Thus, Christian pupils in the school should also, as a rule, have had the opportunity to decide whether they wish to participate in the event that is considered to be practising Christianity. However, the Tribunal is of the opinion that by organising an event that is against the applicant's religion or belief and not providing corresponding alternative activities for it, the school has in practice treated the applicant less favourably on the basis of religion or belief than the pupils whose religion had been in line with the event. Thus, this creates a presumption of direct discrimination against the applicant because of their religion or belief.

To support their claim, the applicant has also referred to a concert organised in autumn 2023, a choir performance organised in 2024, events organised to familiarise the pupils with Easter and Advent, and the school's discriminatory practice of removing children from the events that are a part of education and the possibility of abstaining from the content that is part of education by mere notification. The Tribunal notes that the events above have not been portrayed as denominational and it has not been suggested that the applicant has been discriminated against on the basis of their religion or belief in these occasions. In this respect, too, the account presented in the case is so lacking in detail that in view of the facts discovered, it cannot be objectively assumed that the prohibition of discrimination has been violated. Thus, no presumption of conduct that violates the prohibition of discrimination is created in this matter.

Rebuttal of the presumption of discrimination

As stated above, the matter has given rise to a presumption of direct discrimination insofar as it concerns a concert organised in spring 2023. Under section 11 subsection 1 of the Non-Discrimination Act, different treatment does not constitute discrimination if the treatment is based on legislation and it otherwise has an acceptable objective and the measures to attain the objective are proportionate. Subsection 2 does not apply since the matter concerns both the use of public authority and access to education (paragraphs 1 and 3).

The respondent has argued that they have not intended to organise an opportunity to practise a religion. Instead, the intention has been to organise an event suitable for everyone. Thus, the respondent has not argued that their actions were based on law or that there was an acceptable objective for the actions. The Tribunal is of the opinion that consequently, the respondent's actions have been a direct discrimination against the applicant on the basis of religion or belief and prohibits the respondent from repeating the discrimination.

Obligation to promote equality

The National Non-Discrimination and Equality Tribunal is of the opinion that on the basis of the account presented in the matter, it is still necessary to assess whether the respondent or the educational institution maintained by the defendant, i.e. the applicant's school, has neglected its obligation to promote equality under section 6 subsection 1 of the Non-Discrimination Act.

In this respect, the Tribunal considers it appropriate to assess in particular the concerts held in autumn 2023 and spring 2023 as well as the conduct concerning the performance of the parish choir and the presentation of choir activities organised in 2024. Based on the presented report, the events in question have been organised for all pupils during the school day, and the songs performed in them have been suitable for everyone as such, with the exception of the concert organised in spring 2023, which has been discussed above in connection with the question of discrimination. The Tribunal thus primarily assesses the arrangements of and communications about the events, as well as the promotion of the parish choir activities in a common event.

Based on the account presented in the matter, in autumn 2023, the city organised a concert at the applicant's school; the concert was similar to those held for all the city's pupils on grades 1 to 6. A notification written by the city's music coordinators was sent about the concert. According to the applicant, the notification should have mentioned the performer's background as a performer of Christian music and the fact that the concert had originally included a hymn. According to the applicant's account, the hymn was removed from the programme after the applicant's guardian contacted the concert organiser. The respondent has not provided a more detailed account of the concert arrangements, but has generally stated that, in accordance with the instructions issued by the Finnish National Agency for Education, an individual hymn does not make an event denominational.

For the sake of clarity, the Tribunal notes that the assessment of a possible neglect of the promotion obligation in this respect targets the respondent, i.e. the city that arranged the concert to be held at the applicant's school.

On 19 September 2022, the Finnish National Agency for Education issued a guideline on organising joint celebrations and religious events in basic education. In accordance with the guideline, there are several traditional celebrations in Finnish basic education intended for all pupils, such as Christmas celebration, Spring celebration and Independence Day celebration. These celebrations cannot be religious events and no alternative events are organised for them.

However, the common celebrations may also include some elements referring to religion. (Finnish National Agency for Education: Guideline concerning the organisation of teaching of religion and ethics in basic education and worldview education in pre-primary education as well as joint celebrations and religious events in pre-primary education and basic education, OPH-3903-2022, 19 September 2022, p. 6–7.)

The Finnish National Agency for Education's guideline also refers to the reports of the Constitutional Law Committee. The Constitutional Law Committee has stated that the Constitution or the praxis of the European Court of Human Rights does not result in a requirement to remove from school activities all content that contains elements referring to religion. Instead, it is important that the school's operations and their guidance take into account the key principles manifested in the praxis of the European Court of Human Rights, such as the prohibition of indoctrination, the requirement of neutrality of public authorities, and religious tolerance and pluralism. Traditional celebrations, such as the end of semester celebration, are part of Finnish culture. They cannot therefore be regarded as events where religion is practiced even if an individual hymn is sung in them. (PeVM 10/2002 vp, p. 7, PeVM 2/2014 vp, p. 5–6)

The National Non-Discrimination and Equality Tribunal notes that the Finnish National Agency for Education's guideline referred by the respondent refers or the Constitutional Law Committee's reports referred to in the guideline exclusively take a stand on traditional celebrations, such as individual hymns included in end-of-semester celebrations. The concert organised at the applicant's school in autumn 2023 was not a traditional celebration common for everyone, but an individual concert organised for pupils during school hours. Thus, the hymn that was originally a part of the concert cannot be regarded a Finnish festive tradition, the inclusion of which would be unambiguously acceptable.

Neither the Finnish National Agency for Education's guideline nor the Constitutional Law Committee's reports expressly take a stand on how the inclusion of an individual hymn in a school event other than a traditional celebration should be assessed from the perspective of religious equality. However, in accordance with the National core curriculum for basic education, education must be neutral towards the pupils in terms of religion, worldview or politics (Finnish National Agency for Education, National core curriculum for basic education 2014, 2014:96, p. 14). The Tribunal therefore considers it clear that the inclusion of a religious element, such as a hymn, in an event that is common to all, must be assessed particularly carefully from the perspective of its necessity and justification, taking into account, among other things, the requirement of neutrality of education and the prohibition of indoctrination, neutrality of public authority and pluralism. Furthermore, as stated above, an education provider must ensure that when cooperating with religious and ideological organisations external to the school, these actors comply with the regulations and instructions issued on education (EOAK/1417/2019, pp. 30–31).

Thus, the respondent is obligated to assess the content of the event from the perspective of religious equality also when the event is organised in practice by an external partner. Based on the account presented, the Tribunal cannot assess what measures the respondent has taken to ensure that the concert is equal for everyone regardless of religion or belief. Thus, the Tribunal cannot conclude that the defendant has neglected their duty to promote equality in this respect, and neither can the Tribunal conclude that the defendant has striven to promote equality. The Tribunal exhorts the respondent to pay attention to the issues above when organising events other than traditional festivities in the future.

With regard to communicating about the event, the Tribunal states that according to the Finnish National Agency for Education's guideline and the statement of the Constitutional Law Committee

referred to therein, it is essential that the pupil's guardian has a real and genuine freedom to choose whether or not the pupil will participate in events with religious content (PeVL 2/2014 vp). When communicating the content of the events, it is sufficient to provide a general description of what the event is and where it is organised. The detailed content and agenda of the event does not need to be described, but it is a good idea to mention any partner organisations, for example. (Finnish National Agency for Education 2022, p. 9)

The instructions also refer to the decision-making practice of the Parliamentary Deputy-Ombudsman. The Parliamentary Deputy-Ombudsman has stated, for example, that just because a morning assembly is organised by the parish, it does not necessarily mean that the assembly constitutes practice of religion. If it has been agreed with the parish that the morning assemblies held by the parish have universal humanist content and are intended for all pupils, they cannot include practice of religion. The education provider must ensure that external organisations comply with the regulations and guidelines issued on education. In these cases, it is additionally important to inform pupils and their homes of the fact that the morning assemblies held by the parish are of a humanist nature and do not involve practice of religion. (EOAK/1417/2019) According to the Finnish National Agency for Education's guideline, the same principles also apply to cooperation with other religious and worldview actors. (Finnish National Agency for Education 2022, p. 9)

The Tribunal notes that the concert held at the applicant's school in autumn 2023 was not organised in cooperation with a parish or other religious organisation, but with Concert Centre Finland. The performer in the concert held at the applicant's school was one that played several instruments simultaneously and sang, and the performer's name was mentioned in the notification about the concert. According to the information provided by the applicant, who found the information in Wikipedia, the performer was known as the performer of Christian music, but no other account of the performer's background has been presented. Based on the message sent to the applicant's guardian by the Communications Manager of Concert Centre Finland, the performer writes and performs non-religious songs about the lives of children and young people and the school concert had consisted of such songs. Taking into account the report on the performer's background and the songs performed, the respondent's communication about the concert must be considered sufficient from the perspective of the obligation to promote equality.

The actions of the educational institution maintained by the respondent, i.e. the applicant's school, will still have to be assessed in the matter. The Tribunal first assesses the school's actions to the extent that the parish choir has performed at the school in 2024 and the parish choir activities have been presented in the event. The notification about the event did not state that the choir is a parish choir. With regard to communicating about the partner organisations, the Tribunal states that on the basis of the guideline of the Finnish National Agency for Education and the decision-making practice of the Parliamentary Deputy-Ombudsman referred to above, open communication about a parish or other religious actor as a partner organisation promotes the realisation of equality regardless of religion or belief. Open communication about partner organisations significantly promotes the realisation of equality even when the event is suitable for everyone as such.

To the extent that the matter concerns a presentation of the choir activities of the parish, the Tribunal brings up the decision of the Parliamentary Deputy-Ombudsman in matter EOAK/1417/2019. In that matter, the Parliamentary Deputy-Ombudsman assessed a situation in which the parish shared information about confirmation classes during the recess so that any interested pupils could go to discuss with the parish representatives. The decision paid attention to the voluntary nature of the event and the fact that it was not a religious event related to education, and the event did not include religious practice. In this case, communication about confirmation classes was not considered problematic. However, on a general level, the Deputy-Ombudsman

drew attention to the fact that when the school makes its premises available for non-educational activities for pupils, it must ensure that the partners are familiar with and comply with the provisions and regulations related to the provision of education. The decision also considered it important that homes are informed in advance of such cooperation with the parish and its voluntary nature. (EOAK/1417/2019, p. 32)

Based on the notification, the choir performance being investigated was arranged for all pupils in grades 3–6 of the school during the school day. The notification did not indicate that attending the event was voluntary for all pupils, not just those whose school day had ended before the event. The Tribunal states that advertising the activities of the parish in an event common for all, especially without informing the pupils' guardians about it in advance, is likely to put the pupils in an unequal position based on religion or belief, and at the very least does not promote equality of the pupils regardless of their religion or belief.

Based on what is stated above, the school can be considered having neglected its duty to promote equality insofar as it has failed to mention in its notification about the event that the choir is a parish choir, and insofar that the activities of the parish have been advertised in a common event. This assessment has to be made despite the fact that the performance of the choir was in itself suitable for everyone.

The Tribunal further assesses conduct of the applicant's school insofar as it concerns a concert held spring 2023 that turned out to be religious and was more extensively discussed in connection with the discrimination matter above. The Tribunal states that the applicant's school has not provided information on the background of the performer in its original notification about the event, but that the pupils' guardians have been informed about it before the event in the same context where the event has been reported to be suitable for everyone. Considering the fact that the guardians have been informed of the background of the performer, becoming aware of the cooperation with the parish would not have had an impact on the realisation of the pupils' religious equality. Thus, the communications cannot be considered so inadequate that the school can be considered to have neglected its duty to promote equality.

However, the concert proved out to be denominational as described above, even though the respondent stated that they have instructed the partner that the event should be suitable for everyone. As stated above, the school can be considered to be obligated to ensure that also external parties comply with the regulations and instructions issued on education (EOAK/1417/2019). Therefore, the school can be considered having neglected its obligation to promote the equality of pupils regardless of religion or belief when it had not properly ensured that the content of the event was universally humanist and thus suitable for all.

The applicant has also made reference to the school's conduct in connection with such events as Peek into Easter and Peek into Advent. The Tribunal notes that the report presented in this respect is so limited in details that it cannot be used as the basis for assessing compliance with the obligation to promote equality. However, the Tribunal urges the respondent to ensure that events like this are suitable for everyone and that information about the partner organisations is communicated appropriately. The Tribunal also urges the respondent to pay particular attention to the fact that events are organised also from other perspectives than Christianity, taking into account the plurality of worldviews and cultures.

In conclusion, the Tribunal is of the opinion that as shown above, the respondent's school has neglected its duty to promote equality insofar as it has not verified the suitability of the concert organised by its partner organisation for everyone and insofar as it has not communicated that it had organised the performance of the choir in cooperation with the parish and that the activities of

the parish have been advertised at the event. The Tribunal obligates the applicant's school to take measures to promote equality. In particular, these measures shall ensure that in the future, the school does not organise events where pupils are at risk of being placed in an unequal position or treated less favourably than others on the basis of religion or belief. The measures must also ensure that the pupils and their guardians are informed of cooperation with parishes and other religious and worldview organisations even if the event organised in cooperation is universally humanistic and suitable for everyone. The Tribunal also urges the school to pay attention to the prohibition of indoctrination, the requirement of neutrality of public authorities and religious tolerance and pluralism when implementing its obligation to promote equality. Since the school is best aware of its operating environment, it is also best equipped to assess what kind of practical measures are the most effective, appropriate and proportionate to fulfil the obligation.

Recommendation for the compensation

Under section 20, subsection 3 of the Non-Discrimination Act, the National Non-Discrimination and Equality Tribunal can recommend that compensation be paid to a victim of discrimination.

According to section 24 subsection 1 of the Non-Discrimination Act, the compensation must be equitably proportionate to the severity of the act. The severity of the act is assessed by taking into account the type, extent and duration of the infringement. According to subsection 3 of this section, compensation may be made more reasonable or not imposed at all if compensation would be unreasonable, taking into account in particular the offender's attempts to preclude or remove the consequences of the actions and the offender's financial position.

According to the Government proposal that led to the adoption of the Non-Discrimination Act, the nature, extent and duration of the violation affects the amount of compensation so that the more serious and prolonged the violation of rights, the greater the compensation that is sentenced. The seriousness of the infringement is assessed on the basis of objective criteria and not merely on the basis of the injured party's subjective experience. When assessing the quality and severity of discrimination, attention can be paid to, for example, what and how serious the consequences of discrimination have been for the injured party, whether discrimination has been deliberate and whether the discrimination has been based on several grounds for discrimination. The Government proposal emphasises proportionality as the guiding principle for determining the amount of compensation. (HE 19/2014 vp, p. 90)

The Tribunal notes that the applicant has demanded that the Tribunal recommend the payment of a compensation of EUR 1,000. In accordance with section 20, subsection 3 of the Non-Discrimination Act, the Tribunal may recommend the payment of compensation to a victim of discrimination, and the recommendation of a compensation does not require a claim by the applicant. Therefore, the Tribunal is of the opinion that it may also recommend that the compensation be paid in an amount that differs from the one demanded by the applicant.

As a result of the conduct of the school maintained by the respondent, the applicant is in practice obligated to participate in the practice of religion in violation of their conscience. This has been an individual event of a relatively short duration, but the seriousness of the conduct is emphasised by the fact that the applicant was a young child aged 8 at the time of the event. The seriousness of the conduct is also emphasised by the status of the educational institution maintained by the respondent and its obligation to promote equality under section 6 subsection 1 of the Non-Discrimination Act. The Tribunal is of the opinion that a compensation of EUR 2,000 should be considered fair in relation to the seriousness of the act. The fact that the educational institution has stated that it has tried to ensure the suitability of the event for all pupils should be taken into account as a factor for making the compensation more reasonable. Taking into account the above

considerations as a whole, the Tribunal recommends that the defendant pay EUR 1,500 to the applicant as a more reasonable compensation.

Conclusion

The National Non-Discrimination and Equality Tribunal finds that due to the actions of the educational institution maintained by the respondent, the applicant has been directly discriminated against on the basis of religion or beliefs, and forbids the respondent from repeating the discrimination. The Tribunal recommends that the respondent pay a compensation of EUR 1,500 to the applicant.

The Tribunal is also of the opinion that the educational institution maintained by the respondent has neglected its duty to promote equality insofar as it has not verified the suitability of the concert organised by its partner organisation for everyone and insofar as it has not communicated that it had organised the performance of the choir in cooperation with the parish and that the activities of the parish have been advertised at the event. The Tribunal obligates the applicant's educational institution to take measures to promote equality.

Decision of the National Non-Discrimination and Equality Tribunal

The National Non-Discrimination and Equality Tribunal decided to approve the referendary’s proposal.

Legal provisions

Mentioned in the grounds.

Appeal

The Tribunal’s recommendation on the compensation paid to the applicant may not be appealed.

In other respects, the decision may be appealed to the Administrative Court. Instructions for requesting a review are attached to this document.

The matter was decided by Henrik Gustafsson (Chairperson), Satu Honkala, Petteri Plosila and Milka Sormunen. Referendary of the matter: Alexandra Strandén.