立法會CB(2)1675/10-11(05)號文件

Taikoo Shing, Hong Kong

DÉ

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EQUAL

OPPORTUNITIES COMMISSION

本函檔號:

EOC/CR/COP/01/01

來函檔號:

CB2/SS/8/10

電話號碼:

2106 2112

傳真號碼:

2511 8224

專遞函件

香港昃臣道8號

立法會大樓

立法會

《殘疾歧視條例僱傭實務守則修訂本》小組委員會秘書

林培生先生

林先生:

《殘疾歧視條例僱傭實務守則修訂本》小組委員會

《殘疾歧視條例僱傭實務守則修訂本》小組委員會於2011年5月3日舉行的 會議上,就根據《殘疾歧視條例》提出投訴的趨勢,要求平機會提交進一步統計 數字資料。

平機會現提交下列文件,以供各議員參閱:

- 《殘疾歧視條例》具體查詢的數字:投訴、調解和法律協助(附件1)
- 2. 有關《殘疾歧視條例》的已完結法庭訴訟補充資料(附件2)

平等機會委員會 高級平等機會主任(執行規定)

連附件

副本送:勞工及福利局康復專員蕭偉強先生

二零一一年五月五日

Statistics on DDO

Specific Enquiries, Complaints, Conciliation and Legal Assistance 《殘疾歧視條例》的數字 具體查詢、投訴、調解和法律協助

(20.9.1996 to 31.3.2011)

Specific Enquiries 具體查詢	
Total number of specific enquiries 具體查詢總數1:	28,631
Total number of specific enquiries(1996 – March 2006) ²	17,056
具體查詢總數(1996-2006 年 3 月)	
Employment related specific enquiries(April 2006 to 1st quarter 2011)	9,300
關於僱傭範疇的具體查詢 (2006 年 4 月至 2011 年第 1 季)	
Non-employment related specific enquiries (April 2006 to 1 st quarter 2011)	2,275
非僱傭範疇的具體查詢(2006年4月至2011年第1季)	

Complaints Received 收到的投訴個案 ³		
Total number of complaints 投訴個案總數:	5,7 9 3	
Complaints Investigation 投訴調查 ⁴		5,112
Self-Initiated Investigation 主動調查 ⁵		681
Complaints Investigation 投訴調查個案	er i de fêr	A. A.
Total number of complaints handled (not including self-initiated investigation	5,112	
已處理的投訴個案總數(不包括主動調查):		
Investigation not possible 無法進行調查 ⁶	2	
Cases discontinued 終止調查:	2,981	
Early resolution 提早解決 ⁷		159
Other situations 其他原因 ⁸		2,822
Cases proceeded to conciliation 作出調解的投訴	1,972	
Cases under investigation/conciliation 現正進行調解的投訴	157	
Cases Proceeded to Conciliation 作出調解的投訴個案		
Total number of conciliation attempted 曾嘗試調解的投訴個案總數:	1,972	
Conciliated cases 成功調解		1,239 (63%)
Conciliation unsuccessful 未能成功調解		733 (37%)

Application for Legal Assistance 申請法律協助的個案	
Total number of applications 申請總數:	326 ⁹
Granted 給予	126
Not granted 拒絕給予	192
Withdrawn by applicants 申請人撤銷申請	3
Under consideration 正在審議中	5
Total cases granted for legal assistance 獲給予協助的個案:	126
Settled before court proceedings 於進行法律程序前已和解	平 37
Proceed to court 進行訴訟	43
Withdrawn 撤銷 ¹⁰	38
Ongoing 正在處理中	8
Court Proceedings 進行訴訟的個案	
Total writs issued 發出令狀總數:	39 ¹¹
Won 勝訴	7
Lost 敗訴	1
Withdrawn during court proceeding 訴訟中途撤銷案件	1
Settled out of court 庭外和解	2.7
Ongoing 正在進行中	3

Foot Note

¹ Specific enquiries are either related to the employment field (e.g. discrimination related to recruitment policy, terms and conditions of employment, termination of employment), or the non-employment field (e.g. education, access to premises and provision of goods, services and facilities).

具體查詢包括僱傭範疇(例如:有關招聘政策、僱用條款及條件、解僱的歧視)和非僱傭範疇(例如:教育、處所通道和貨品,服務和設施的提供)。

- ² EOC has implemented a new complaint management system from 1 April 2006 and introduced finer classification of enquiries. No breakdown available between employment related and non-employment related specific enquiries before April 2006.

 平機會於 2006 年 4 月 1 日起實行新的投訴管理系統,對查詢作更細緻分類。於 2006 年 4 月以前,具體查詢並無分開僱傭範疇和非僱傭範疇的數字。
- ³ On average, about 12% of the specific enquiries would later turn into actual complaints. The rest of the complaints were lodged with the EOC directly. 平均而言,約有 12%的具體查詢其後會變成真正的投訴個案。其他投訴個案都是直接向平機會提出投訴。
- ⁴ Complaints investigations are complaints that have a complainant(s) and lodged in writing. 投訴調查是指有投訴人作出書面投訴後而進行調查的個案。
- ⁵ Self-initiated investigations are investigations initiated by the EOC where a complainant/person wishes to remain anonymous or does not wish to make an actual complaint after reporting the case or reports of discrimination in the media which are followed up by the EOC.

主動調查是指由平機會自行提出進行的調查,因為投訴人/有關人士在舉報個案後希望保持匿名或不願作出真正的投訴;也有些個案是平機會跟進傳媒報道而進行調查。

⁶ Respondent's identity cannot be ascertained or respondent's whereabouts cannot be traced.

未能肯定答辯人的身份或未能追蹤到答辯人的行蹤。

⁷ Matter resolved in the course of investigation and complainant had no desire to pursue the complaint.

在調查期間解決的事宜,以及投訴人不想繼續追究。

⁸ Cases were discontinued following complaint investigation on grounds of no unlawful act (S 80(4)(a)), no desire to pursue complaint (S 80(4)(b)), lapsed over 12 months (S 80(4)(c)), should not be a representative complaint (S 80(4)(d)), being frivolous, vexatious, misconceived or lacking in substance (S 80(4)(e)).

經進行調查後而被終止的個案,原因包括:無違法行為(第80(4)(a))條),不想繼續追究 (第80(4)(b)條),已超過12個月(第80(4)(c)條),不應是代表投訴 (第80(4)(d)條),項屑無聊、無理取關、基於錯誤理解或缺乏實質 (第80(4)(e)條)。

- 9 Approximately 44% of unsuccessful conciliation subsequently applied for legal assistance with the EOC.
- 約 44%不成功的個案中其後向平機會申請法律協助。
- ¹⁰ About 1/2 of the cases were withdrawn upon discovery of evidence, the rest were withdrawn due to other situations.
- 約半數個案是在法律行動中的搜証過程撤銷,其餘則因不同情況撤銷。
- 11 Some cases are combined/grouped when writs were issued. 有些案件在發出令狀時合併/集合一起處理。

有關《殘疾歧視條例》的已完結法庭訴訟補充資料 (1996年9月20日至2011年3月31日)

案件編號	引用典籍	性質	申索性質	原告人/ 上訴人	被告人答辯人	裁决	賠償
EO 1 of 1997	[1999] 2 HKLRD 263	非僱傭	的士司機的殘疾歧視	馬碧容	高泉	勝訴	\$20,000 (上訴後減至 \$10,000)
EO 3 of 1999	[2000] 3 HKLRD 77	僱傭	招聘政策 - 基於家庭成員 的殘疾而起的殘疾歧視	K	消防處	勝訴	\$985,143.28
EO 4 of 1999	[2000] 3 HKLRD 77	僱傭	招聘政策 - 基於家庭成員 的殘疾而起的殘疾歧視	Y	消防處	勝訴	\$775,742.48
EO 7 of 1999	[2000] 3 HKLRD 77	僱傭	招聘政策 - 基於家庭成員的殘疾而起的殘疾歧視	W	香港海關	勝訴	\$1,061,134.80
FACV 25 of 2000	[2002] 2 HKLRD 1 [2006] 9 HKCFAR	非僱傭	的士司機的殘疾歧視 - 下令被告 人作出道歉的權力	馬碧容	高泉	勝訴	不適用
EO 9 of 2004	[2004] 2 HKLRD 77	僱傭	殘疾歧視 - 放病假期間被 解僱	蕭啟元	瑪利亞書院	勝訴	\$198,000
EO 8 of 2006	[2008] 2 HKLRD 56	僱傭	殘疾歧視 - 解僱	葉啟生	輝怡有限公司	勝訴	\$94,544.53
DCEO 2/2007	[2008] 5 HKLRD 340	僱傭	殘疾歧視 - 解僱	郭永新	羅容佳經營之環球金 屬塑膠製品廠	勝訴	\$98,500
DCEO 5/2009		非僱傭	殘疾中傷	董禮霖	R1: 東方報業集團有 限公司 R2: 太陽報	敗訴	不適用