

SUMMARY

ECJ 23 April 2020, Case C-507/18 (Associazione Avvocatura per i diritti LGBTI), Sexual orientation

***NH - v - Associazione Avvocatura per i diritti LGBTI – Rete Lenford
(C-507/18), Italian case***

Summary

Declarations by a person during a radio programme stating that he did not want to recruit homosexual persons to his firm nor use their services are covered by Directive 2000/78/EC.

Questions

(1) Must Article 9 of Directive [2000/78] be interpreted as meaning that an association composed of lawyers specialised in the judicial protection of LGBTI persons, the statutes of which state that its objective is to promote LGBTI culture and respect for the rights of LGBTI persons, automatically, as a legal person having a collective interest and as a non-profit association, has standing to bring proceedings, including in respect of a claim for damages, in circumstances of alleged discrimination against LGBTI persons?

(2) On a proper construction of Articles 2 and 3 of Directive [2000/78], does a statement expressing a negative opinion with regard to homosexuals, whereby, in an interview given during a radio entertainment programme, the interviewee stated that he would never appoint an LGBTI person to his law firm nor wish to use the services of such persons, fall within the scope of the anti-discrimination rules laid down in that directive, even where no recruitment procedure has been opened, nor is planned, by the interviewee?

Judgement

The Court (Grand Chamber) hereby rules:

1. The concept of ‘conditions for access to employment ... or to occupation’ in Article 3(1)(a) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation must be interpreted as covering statements made by a person during an audiovisual programme according to which that person would never recruit persons of a certain sexual orientation to his or her undertaking or wish to use the services of such persons, even though no recruitment procedure had been opened, nor was planned, provided that the link between those statements and the conditions for access to employment or occupation within that undertaking is not hypothetical.
2. Directive 2000/78 must be interpreted as not precluding national legislation under which an association of lawyers whose objective, according to its statutes, is the judicial protection of persons having in particular a certain sexual orientation and the promotion of the culture and respect for the rights of that category of persons, automatically, on account of that objective and irrespective of whether it is a for-profit association, has standing to bring legal proceedings for the enforcement of obligations under that directive and, where appropriate, to obtain damages, in circumstances that are capable of constituting discrimination, within the meaning of that directive, against that category of persons and it is not possible to identify an injured party.

Creator: European Court of Justice (ECJ)

Verdict at: 2020-04-23

Case number: C-507/18