



NEWS REPORT

Date: 5 December 2014
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Title: Non-discrimination and right to education
Country: Italy
Context
Issue at stake: Right to be assisted at school by a support teacher
Ground of discrimination: Disability
Source: National court decision
Field: Education
Legislative provisions: Law no. 18/2009 and UNCRPD; Law no. 67/2006

Content

Case: A local committee granted a support teacher to a child with disability for 25 hours a week, in order to let her attend nursery school for a whole day - morning and afternoon up to 4 pm. The School had then reduced the hours to 12 a week thus preventing the child from staying at school for the whole day every day of the week, only enabling her to stay in school for the mornings. The parents brought the case to court and won in first and second instance: the School was condemned to grant the total amount of hours and to pay 5000 Euro as non-pecuniary damages. The School appealed the judgment to the Supreme Court.

Decision of the Court: The Supreme Court notes that the right to education is one of the fundamental rights of persons with disabilities. The Court recalls the relevant international sources, such as the UN CRPD, ratified in Italy with law 2009 no. 18 and the provisions on equality and non-discrimination in the EU Treaties and in the EU Charter on Fundamental Rights. According to the Court, support teachers play a fundamental role to ensure the integration of children with disability and the individual plan agreed by the competent local committee cannot be disregarded or changed by the Schools on ground of its economic cost. Therefore the reduction made by the School of the hours to be taught by the support teacher is an indirect discrimination on ground of disability.

Internet link source and additional information:

<http://dirittocivilecontemporaneo.com/2014/11/per-le-sezioni-unite-la-mancata-attuazione-del-piano-educativo-individualizzato-elaborato-per-il-sostegno-scolastico-dell'alunno-in-situazione-di-handicap-costituisce-una-discriminazione-indiretta/>