



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Italy
<b>Title:</b>	Non-pecuniary damages for discrimination of a pupil with disability
<b>Date:</b>	6 July 2015
<b>Expert:</b>	Chiara Favilli
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Discrimination at school for several acts of direct discrimination and harassment
<b>Ground of discrimination:</b>	Disability
<b>Source:</b>	National court decision
<b>Field:</b>	Education
<b>Applicable law:</b>	Act no. 67/2006 on "Measures for judicial protection of persons with disability victims of discrimination".

### **Content**

**Case:** A student with disability was victim of several acts of discrimination by his support teacher and by the Director of the School. According to the claimant the support teacher had in several circumstances excluded the student from collective activities or had closed him in a room alone as an extreme remedial to his supposed violent acts. Moreover both the support teacher and the Director had expressed their view about the difficulties raised by the disability of the student in front of him, his parents and all the other students, without taking into account his feelings. The support teacher resigned before the end of the school year and another one was appointed who was then able to build a good relationship with both the student and his parents.

**Decision of the Court:** The Tribunal of Livorno found that the support teacher and the Director of the School had perpetrated several acts of direct discrimination and harassment by excluding the claimant from the collective activities of the group and by creating a humiliating environment with public statements about the problems raised by his disability. The Tribunal condemned the School and the Education Office to pay 10.000 Euro for the non-pecuniary damages suffered by the student. The amount of the damages are calculated taking into account the seriousness of the offences, their number, their length and of the emotional stress produced by those acts for the student.

**Key points of analysis:** The judgment is one of few discrimination cases held in a field beyond employment. Moreover it concerns specific acts made by the support teacher and the Director of the School that have been taking place during a school year. Those acts were found to amount to direct discrimination and to harassment, expressly ruling out the relevance of the discriminatory intent of the perpetrators. The sanction is the most relevant part of this judgment: in facts the acts of discrimination were already ended and the support teacher was replaced by another one, but the Court finds that the acts already committed had caused non-pecuniary damages to the student. The legal action is

brought against the School and the Education Office for the acts made by the teacher and the director, without taking into account their personal liability.

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