



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

NEWS REPORT

Country:	Italy
Title:	Discrimination against Roma in a legal publication
Date:	17 July 2015
Expert:	Chiara Favilli
<u>Context</u>	
Issue at stake:	Discrimination against Roma in an Example of Legal Opinion in Criminal law
Ground of discrimination:	Race/ethnic origin
Source:	National court decision, Tribunal of Rome, 16.02.2015
Field:	Other
Applicable law:	Decree 215/2003

Content

Case: A bar exam preparatory handbook, published by a very popular legal publisher, consisted of several opinions of criminal law, acting as a model for the bar exam, where lawyers have to write two opinions, one of Civil law and one of Criminal law. One of these opinions was about the crime of buying goods of doubtful origin. As an example of facts that the buyer should take into account in order to suspect the "doubtful origin" was the circumstance that an object of high value is sold by "a beggar, a gypsy or a well-known convicted felon". One person belonging to the Roma community felt injured and together with two NGOs, Article 21 and ASGI, she brought the publisher to Court by the civil action against discrimination.

Decision of the court: Firstly, the Tribunal found that all the three claimants had legal standing. The woman because she belonged to the Roma community and therefore felt personally injured reading the challenged opinion; the two NGOs because they have the right to legal standing according to Art. 5 of Legislative decree 215/2003, in case of collective discrimination. The Tribunal found the opinion discriminatory on ground of ethnic origin. In the example Gypsies were put next to beggars and convicted felons, two groups identified by an activity (asking for money and committing crimes) while the group of Gypsies is identified by its ethnic origin. According to the Court the example in the opinion constitutes clear anti-gypsy discrimination.

Moreover, the Court found that the intent of the author was not relevant according to Art. 2 of Legislative decree 215/2003 providing for the definition of direct discrimination. Finally, the Court condemned the publisher to the withdrawal from the market of all the copies of the book; to change it in case of future publications by deleting the word "gypsy" and to pay 1000 Euros as non-pecuniary damages to the individual victim as member of the discriminated ethnic group.

Key points of analysis: One interesting point of this judgment is the recognition of legal standing to the woman: the act of discrimination was not addressed to her specifically, but she is qualified as a victim because she is a person belonging to the

Roma community. Another relevant issue is that of the redress. The Tribunal condemns the publisher to the redress of the damages without any specific reasoning, and even the amount of 1000 Euros is established without any particular justification or evidence, only accepting the request of the claimant, judged as suitable to redress the non-pecuniary loss suffered by the victim. The redress in this case seems to be a sort of reparation for the injury suffered but taken for granted, without the need to show the particular effects that the injury has provoked.

Internet link source: <http://www.asgi.it/wp-content/uploads/2015/04/Tribunale-di-Roma-I-sez.-Civile-1622015-est.-Pratesi-XXX-ASGI-Associazione-21-luglio-avv.-Fachile-C.-Gruppo-Editoriale-Simone-%E2%80%A6.pdf>.