



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

NEWS REPORT

Country:	Greece
Title:	Conviction of bus driver for discriminatory behaviour confirmed by appeal Court
Date:	3 November 2015
Expert:	Theodoridis, Athanasios
Update of flash report nr:	EL_61 (2014)
<u>Context</u>	
Issue at stake:	Access to public bus service regardless of racial/ethnic origin
Ground of discrimination:	Race/ethnic origin
Source:	National court decision
Field:	Access to goods and services
Applicable law:	Anti-discriminatory Law 3304/2005 (Article 16, para. 1)

Content

Case development:

On 16 October 2015 the three-member *Misdemeanour Court of Thessaloniki* sentenced a driver of OASTH (Organisation of Public Transport in Thessaloniki) to eight months' imprisonment, a suspension for three years and a fine of 1000 euros, following the accusation of forcing two black passengers to leave the bus of OASTH, on the grounds of them supposedly being illegal immigrants. The case had been brought to court after complaints made before the Prosecutor on behalf of witnesses with the help of an antiracist NGO specialised in litigation. In the first instance, the driver had been convicted by the one-member Misdemeanour Court of Thessaloniki to 10 month imprisonment and a 1000 euro fine (Decision 4232/2014, issued on the 24th February 2014) for breaching the anti-discriminatory Law 3304/ 2005 that transposed the EU directive 2000/43/EC for combating discrimination and the promotion of the principle of equal treatment irrespective of ethnic or racial origin into national law (see Flash Report EL_61, 2014).

The case became publicly known in April 2013, following a recourse made by a group of lawyers, denouncing this particular driver for discriminatory behaviour. Citing a passenger's testimony, the lawyers argued that the driver after making the two black passengers descend from the bus under the pretext that they did not possess a valid ticket, verbally attacked the other passengers who were alarmed by his behaviour. According to the same testimony, he reportedly stated that he was a member of the Golden Dawn when he addressed them, showing a pendant he wore with the symbol of the party and a related tattoo. This complaint led to the intervention of the Prosecutor of Thessaloniki, ordering a preliminary investigation, which brought the driver to court.

The Racist Violence Recording Network reminded that the legislator had criminalized the denial of access to services on the grounds of ethnic or racial origin, religious or other beliefs, disability, age or sexual orientation (Article 16 para.1 of Law 3304/2005) and it consequently predicted the ex officio prosecution for this offense (Article 21 par. 5 of Law 4251/2014).

Decision of the Court:

Examining the case on appeal, the court found the driver guilty –the same as during the first instance- of denial of service based on racist reasons, but compared with the previous trial, the court reduced the sentence by two months. The penalty is suspended for three years, which means that if he does not commit any crime or offense any other crime during this period of time the penalty will not be imposed.

While testifying in the second degree Court the aforementioned passenger-eyewitness said that the driver was rude and that he scared the immigrants with his behaviour. As she emphasized, three individuals got on the bus (line '26'), but the driver only forced the Africans to descend, while shouting "inside the bus I am the boss".

During his plea, the accused denied that he had forced the two black passengers off the bus, as well as ever having declared that he belonged to the Golden Dawn party. He claimed that these two passengers entered using force from the bus' back door and he had asked them to descend from the front one, but when he demanded for their tickets he received a negative answer. He also denied that the alleged incident that followed with the passengers ever happened and he described his tattoo as a depicting of an ancient symbol.

Key points of analysis:

This decision creates a legal precedent for courts and makes clear that anti-discrimination law may only be applied if citizens that happen to witness this kind of behaviour report them to the authorities, along with the complementary support of the antifascist and antiracist movement.

Internet link source:

<http://charta.gr/oasth-racism/> Last accessed 28/10/2015.