



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

### NEWS REPORT

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| <b>Country:</b>                  | <b>Poland</b>   |
| <b>Title:</b>                    | Pregnancy related discrimination of religion teachers   |
| <b>Date:</b>                     | 15 December 2015  |
| <b>Expert:</b>                   | Eleonora Zielińska  |
| <b>Issue at stake:</b>           | Labour law protection of pregnant women against dismissal does not apply to religion teachers if the bishop decides so  |
| <b>Ground of discrimination:</b> | Sex and religion  |
| <b>Source:</b>                   | National court decision   |
| <b>Field:</b>                    | Employment  |
| <b>Applicable law:</b>           | Ruling of District Court of Krakow Nowa Huta of 6.10.2015 (ref. no IV P 1587/14/N); Article 11 <sup>3</sup> , 18 <sup>3a</sup> and 177 (1) of Labour Code of Act of 26 June 1974 consolidated text (Dz.U.) JoL 2014, item 1502, with amendments, hereafter: LC, Article 12 of the Concordat between the Vatican State and the Republic of Poland of 28 July 1993 (JoL. 1993 No. 51 item 318), Article 23 (1) item. 6 and Article 23 (2) pkt. 6 of the Teacher's Charter of 26 January 1982, <sup>1</sup> consolidated text: JoL 2014 item 191 |

### Content

**Case development:** The ruling concerned a female employee who worked as a religion teacher in a public school. The school laid off the religion teacher, despite the fact that she was pregnant, after the bishop withdrew her permit to teach the subject after learning that she was cohabiting with her partner outside marriage. In the view of the school's management, once the bishop withdrew the teacher's permit, the school was obligated to dissolve her employment contract, in accordance with the provisions of the Teacher's Charter. The woman sued the school, requesting to be reinstated to at work; she also claimed damages with respect to, among others, the violation of the equal treatment rule (Article 18<sup>3a</sup> LC) and prohibition of discrimination in employment (Article 11<sup>3</sup> LC).

**Decision of the Court:** The court rejected the claim, finding that the school was entitled to dissolve the employment contract with the woman after the bishop withdrew her teaching clearance. This withdrawal meant that she no longer was entitled to teach the subject and, in the light of the Teacher's Charter, constituted a lawful basis for dissolution of the employment contract.<sup>2</sup>

**Key points of analysis:** The court had to decide if the withdrawal of the bishop's permit to teach religion and the resulting loss of the right to conduct lessons meant that the school had no other choice but to lay off the teacher, irrespective of the provisions of the Labour Code regarding the protection of the employment relation of pregnant women.

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<sup>1</sup> Act of 26 January 1982 the Teachers' Charter (Ustawa z 26 stycznia 1982r. Karta Nauczyciela).

<sup>2</sup> There is only oral reasoning of this judgment

Article 177 (1) of the LC states that the employer may not dissolve an employment contract with a woman during pregnancy. According to Article 177 (3) LC, such dissolution is only possible in the case of insolvency or liquidation of the employer's enterprise (after consultations with the employee organization representing the employee).

According to Section 12 (3) of the Concordat, religion teachers must have a valid clearance (*missio canonica*) issued by the diocesan bishop. Withdrawal of such clearance means loss of the right to teach religion. In matters of religious upbringing and education, religion teachers are subject to church regulations and ordinances. In all other matters, public law provisions apply (Article 12 (4) of the Concordat). According to Article 23 (1) item 6 of the Teacher's Charter, the employment relation with a nominated teacher is to be dissolved in the case of a withdrawal of the clearance for teaching religion in a school, as regulated in separate provisions. As for the deadline for dissolution of the contract, Article 23 (2) item 6 of the Teacher's Charta stipulates that it should occur by the end of the month in which the clearance has been withdrawn.

**Internet link source:**

<http://www.oswiata.abc.com.pl/czytaj/-/artykul/sad-ciaza-nie-chroni-katechetki-przed-zwolnieniem-jezeli-zada-tego-biskup>, accessed on 20 October 2015.

[http://wyborcza.pl/1,76842,16914842,Katechetka\\_w\\_ciazy\\_zwolniona\\_ze\\_szkoly\\_za\\_zycie\\_w.html](http://wyborcza.pl/1,76842,16914842,Katechetka_w_ciazy_zwolniona_ze_szkoly_za_zycie_w.html), accessed 20 October 2015.