



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

NEWS REPORT

Country:	Austria
Title:	First ruling on discrimination by association
Date:	17 February 2016
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<u>Context</u>	
Issue at stake:	Discrimination by association based on race/ethnic origin
Ground of discrimination:	Race /ethnic origin
Source:	National court decision
Field:	Access to goods and services
Applicable law:	§§ 32, 38 Equal Treatment Act

Content

Case development:

A group of eight persons were denied access to a club in Vienna in 2013 as the bouncer identified three of them as migrants and refused them entrance as "they are persons who lead to problems". With support of the Litigation Association of NGOs against Discrimination (Klagsverband) they all filed complaints – three of them for direct discrimination and five for discrimination by association on the ground of race/ethnic origin. Six of them were seeking EUR 1.000 as compensation for the damage they suffered. Two women had already entered the club and were told to leave after the club officials found out they were part of the group. They were seeking EUR 1.025 (including the entrance fee already paid).

Decision of the Court: *Regional Civil Court of Vienna*, Nr. 36 R 292/15f, issued 10.12.2015

The competent Vienna District Court (Bezirksgericht Josefstadt) awarded those persons who were directly addressed (as being of "migrant origin") EUR 600 each and those discriminated by association with them EUR 350 each. The two women who had already entered the club also received compensation of their EUR 25 entrance fees. The club had lodged and appeal to the Regional Civil Court of Vienna (Landesgericht für Zivilrechtssachen Wien) that upheld the judgement, which is now binding.

Key points of analysis:

It is the first judgement in Austria dealing with discrimination by association and it mainly shows that the courts had no problem whatsoever with detecting this form of discrimination and apply the law. It remains unclear, though, why the amount of compensation awarded differed so significantly between the different forms of discrimination.

Internet link source:

The judgement in German: http://www.klagsverband.at/dev/wp-content/uploads/2016/01/Urteil-ZRS36R292_15f_anonym.pdf last accessed 28.01.2016.