



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

### NEWS REPORT

<b>Country:</b>	Italy
<b>Title:</b>	Harassment by political party through hate speech
<b>Date:</b>	14 July 2017
<b>Expert:</b>	Chiara Favilli
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Harassment through hate speech
<b>Ground of discrimination:</b>	Race/ethnic origin, nationality
<b>Source:</b>	Tribunal of Milan, Decision of 22 February 2017
<b>Field:</b>	All fields
<b>Applicable law:</b>	Legislative decree No. 215/2003

### Content

**Case development:** The “Lega Nord” party and two local branches of it - “Lega Lombarda” and “Lega Nord Saronno” - published several posters against 32 asylum seekers who were to be hosted in a reception centre in the city of Saronno. The posters reported the following statements: “Saronno does not want clandestini” (“Saronno non vuole clandestini”); Renzi and Alfano want to send 32 clandestini to Saronno: accommodation and meals paid by ourselves. In the meanwhile the Government cuts pensions and raises taxes to people of Saronno” (“Renzi e Alfano vogliono mandare a Saronno 32 clandestini: vitto alloggio e vizi pagati da noi. Nel frattempo ai saronnesi tagliano le pensioni ed aumentano le tasse”); Renzi and Alfano behind the invasion” (“Renzi e Alfano complici dell’invasione”). Two associations claimed that this behaviour amounted to harassment prohibited by antidiscrimination law, in particular by Art. 2 of Legislative decree no. 215/2003 and Art. 43 of Legislative decree No. 286/1998.

**Decision of the Court:** The Tribunal of Milan found that qualifying asylum seekers as “clandestine” amounts to discrimination. According to the Tribunal the term “clandestini” means those who enter or stay irregularly in a country, against the laws in force on entry and treatment of aliens, while Asylum seekers enjoy a fundamental right to seek protection because they fear to be persecuted. Describing asylum seekers as “clandestini” is both a mistake and an insult, since the adjective has gained a takedown meaning, thus creating an intimidating and hostile environment.

The Tribunal condemned the defendants to publish the decision both in the local newspaper “il Saronno” and in the national one “Corriere della Sera”. Moreover, they have been fined to the payment of 5.000€ as damages to each Association.

**Key points of analysis:** The decision is very interesting since it convicts for harassment a political party which is usually very hostile against aliens, including asylum seekers. According to the Court, in this case invoking the freedom of expression protected by Article 21 of the Italian Constitution does not make the behaviour legitimate, since in the balance between human dignity and equality on one side, and freedom of expression on the other, it is the former that prevails as a fundamental principle of Italian law.

**Internet link source:** <https://www.asgi.it/wp-content/uploads/2017/02/ASGI-NAGA-BORGHI-DAVIDE-2-TRIBUNALE-DI-MILANO-ORDINANZA-DEL-22.2.2017.pdf>.