



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

NEWS REPORT

Country:	Italy
Title:	Victimisation by politicians against non-discrimination law defenders
Date:	28 July 2017
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Update of news report:	Victimisation (28 May 2015)
<u>Context</u>	
Issue at stake:	Victimisation
Ground of discrimination:	Race/ethnic origin
Source:	National court decision, Court of Appeal of Milan, 23.02.2017
Field:	Other
Applicable law:	N/A

Content

Case: Four private Italian citizens and ASGI (www.asgi.it) challenged the Varallo municipality for the dissemination of racist posters around the city against foreign hawkers without license and women wearing the Burqa. The Court of appeal of Turin had rejected the action since the municipality had removed the posters before the judgment and found that the claimants who were Italian citizens had not the right to legal standing, because they were not victims and did not live in Varallo. However, other posters had later been posted around the city with the names of those claimants, who were ridiculed because by bringing the case to the Court they had diverted economic resources (those necessary for paying legal costs) away from the community. The four Italian citizens found that this was an act of victimisation and decided to bring the case to the Court: two to the Tribunal of Vercelli and two to the Tribunal of Milan, according to the place of their residence. The Tribunal of Vercelli condemned the Major and the Municipality¹ but the Court of appeal of Turin quashed the judgment on 23 February 2016.² The claimants have then appealed the decision to the Supreme Court, where it is still pending. By contrast, the Tribunal of Milan³ rejected the claim but the Court of Appeal of Milan quashed the judgment and found that there was discrimination.

Decision of the Court: The Court of Appeal of Milan found that there was a case of victimisation even if claimants were not victims of discrimination like in the case at stake. The Court found that the protection against discrimination extends to anyone who

¹ See flash report IT-35 (2015), European network of legal experts in gender equality and non-discrimination.

² Court of Appeal of Turin, decision of 23 February 2016, available at: <https://www.asgi.it/wp-content/uploads/2017/02/ASGI-COMUNE-VARALLO-CORTE-APPELLO-TORINO-SENTENZA-295-DEL-23-02-2016-RG-998-DEL-2014.pdf>.

³ Tribunal of Milan, decision of 23 September 2014, available at: <https://www.asgi.it/wp-content/uploads/2017/02/MUSATI-e-CORTE-c-COMUNE-DI-VARALLO-2-ord-rigetto-30-09-2014-rq-26800-del-2014-2.pdf>.

suffered a disadvantage connected to any activity performed to promote equal treatment. The Court underlined that the actions of those who act against discrimination even if they are not victims, should be enhanced and protected. The Court of Appeal condemned the Municipality to the payment of 5.000€ to each claimant and to the publication of the judgment in a local newspaper – “Corriere Valsesiano” –, on the home page of the municipality website and on the Facebook page of the Vice Major.

Key points of analysis: The case of the Municipality of Varallo shows the need of a deeper analysis of the protection afforded by antidiscrimination law against so called « hate speech » and the limit to the freedom of speech in particular to politicians. Another interesting point is that of victimisation and the protection that should be granted to third parties, who have not legal standing to act but who suffered disadvantages for the actions they started in order to protect other people from discrimination. The different approaches of the Courts of Turin and Milan illustrate the need of a common understanding of key concepts of antidiscrimination law.

Internet link source: <https://www.asgi.it/banca-dati/corte-dappello-milano-sentenza-del-23-febbraio-2017/>.