



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

NEWS REPORT

Country:	Belgium
Title:	Conviction of the company “Adecco” for discrimination on the grounds of race and ethnic origin in the temporary employment sector
Date:	29 March 2015
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Context	
Issue at stake:	The Appeal Court of Brussels condemned the temporary work agency “Adecco” for discrimination on the grounds of race and ethnic origin
Ground of discrimination:	Race/ethnic origin
Source:	Appeal Court of Brussels 10 February 2015 (published on the website of the Inter-federal Centre for Equal Opportunities and Opposition to Racism on 20 March 2015)
Field:	Employment
Applicable law:	Federal Act of 10 May 2007 pertaining to fight certain forms of discrimination (General Anti-discrimination Federal Act)

Content

Case: In 2001, an employee of the well-known temporary work agency “Adecco” lodged a complaint arguing that the company was listing job seekers depending on their race and ethnic origin. Native Belgian people without foreign roots were registered in the computer system under the code “BBB”, by reference to the Belgian breed of Cattle “Blanc Bleu Belge” (“White Blue Belgian”). The system was put in place to please some clients who did not want to hire people with a foreign origin.

In 2009, the French NGO “SOS Racisme”, which was involved in another procedure in France against Adecco for similar facts, and the Belgian leftist Trade Union organisation the “FGTB” launched a procedure before the Court of First instance of Brussels. They claimed that thousands of job seekers had been discriminated against on the grounds of their race and ethnic origin. The Tribunal acknowledged the discrimination and convicted Adecco to pay EUR 25.000 of damages to the first applicant and 1 euro to the second applicant. In 2011, the work agency lodged an appeal against the decision before the Appeal Court of Brussels.

Decision of the Court: On 10 February 2015, the Appeal Court of Brussels first confirmed the decision of the Tribunal of first instance on the grounds of admissibility. The Court rejected the argument brought forward by Adecco that the French NGO “SOS Racism” would lack legal standing because its interest would be restricted to discrimination happening in France. Interpreting Article 32, 1° of the Racial Equality Federal Act (providing that associations willing to claim damages on behalf or in support of complainants, in case of violation of the anti-discrimination legislations, must have a

legal personality for at least three years and a legal interest in the protection of human rights or in combating discrimination) in the light of European Law, the Court held that there was no territorial requirement and that an association could bring a non-discrimination claim irrespective of the location of its head office. As to the merits of the case, the Court upheld the decision of the Tribunal of first instance in holding the Adecco firm liable of discrimination. The liability was assessed under a Provision of the Civil Code (Art. 1384, al. 3) according to which an employer is liable for his/her employees' civil offences committed during the employment relationship (irrefutable presumption of liability). As to damages, the Appeal Court of Brussels condemned Adecco to pay a much higher compensation (25.000 euros to each applicant), stressing that a mere symbolic sentence of 1 euro does not meet the requirement of effective and dissuasive sanction as imposed by European Law.

Key points of analysis:

- Conviction of the company "Adecco" for discrimination on the grounds of race and ethnic origin in the temporary employment sector;
- Transnational litigation: right of a French NGO to implement the Belgian anti-discrimination legislation irrespective of the location of its head office;
- A mere symbolic sentence is not enough to meet the EU requirement.

Internet link source: The decision of the Appeal Court of Brussels is available at <http://www.diversite.be/cour-dappel-bruxelles-10-fevrier-2015>