

NEWS REPORT

Date:	20 December 2014
Expert:	Bribosia Emmanuelle
Title:	A press agent convicted for discrimination against a disabled journalist
Country:	Belgium
<u>Context</u>	
Issue at stake:	On 16 July 2014, the Court of First Instance of Brussels convicted a press agent and its company for having discriminated a disabled journalist who is in a wheelchair
Ground of discrimination:	Disability
Source:	Court of First Instance of Brussels, 16 July 2014 (ruling no. RG 13/13580/A)
Field:	Access to goods and services
Legislative provisions:	articles 5, § 1er, 1° et 8°, 14 and 28 of the Federal Act of 10 May 2007 pertaining to fight certain forms of discrimination (General Anti-discrimination Federal Act)

Content

Case development: Mr C is an independent journalist and is specialised in commentating music. He has been collaborating with a Belgian TV channel for 10 years. Mr C suffers from a congenital cerebral palsy and is in a wheelchair since he was 14.

On 20 November 2012, Mr C contacted Mr D, one of the most influent press agents in Belgium, to ask him to organise an interview with an artist the day of his show. He asked the press agent if the artist's dressing room was accessible for people in wheelchair. During this phone call Mr D reportedly said discriminatory words about the journalist's disability, refusing to organise the interview with the artist. After this phone call, Mr C immediately rewrote the phone conversation.

Because Mr D and its company refused to conclude a mutual agreement suggested by Mr C and the Inter-federal Centre for Equal Opportunities and Opposition to Racism (The ICECLR), Mr C and the ICECLR went before the Court of First Instance of Brussels in order to obtain an injunction imposing the cessation of the discriminatory practice and damages.

Decision of the Court: In its decision, the Court held first that the refusal to organise an interview falls within the material scope of the General Anti-discrimination Federal Act under the provision of services and the participation in an economic activity available to the public (articles 5, § 1er, 1° et 8°). Second, the Court relied on article 28 of the General Anti-discrimination Federal Act providing the shifting of the burden

of proof. On this basis, it held that the written transcriptions of the phone call between the journalist and the press agent could amount to a presumption of discrimination. The Court also stated that this transcription did not breach Mr D's right to private life since it was the only way for Mr C to support his claim. The Court decided that the interference to Mr D's right to private life made by the transcriptions was proportionate, and that the respondents failed to bring the proof to the contrary. Finally, on this basis, it granted the applicant and ICECLR's requests stating that 1. Mr C had been directly discriminated against in the refusal to organise the interview by Mr D and his company on the ground of disability; 2. Mr C had also been discriminated against because Mr D and his company refused to find reasonable accommodation to give him the opportunity to interview an artist (art. 14 of the General Anti-discrimination Federal Act). The Tribunal pronounced an injunction imposing the cessation of the discriminatory practice under the threat of a daily fine of 1000 euros. In addition, it convicted the press agent to the payment of a lump sum of 1300 euros in damages.

Internet link source and additional information: <http://www.diversite.be/tribunal-de-premiere-instance-de-bruxelles-16-juillet-2014> (the ruling no. RG 13/13580/A can be downloaded in French)