

P v. S: Victory in the European Court of Justice

30th April, 1996

In a ground breaking decision, the European Court of Justice has today confirmed the recommendation of Advocate General Tesouro, and said that it IS against European law to discriminate against a transsexual person in employment.

The decision, which affects an estimated 40-50,000 European transsexual people and, most importantly those 4-5,000 in the UK (who currently have no legal protection whatsoever), comes as the result of an unfair dismissal case brought by Press for Change activist "P" against her former manager, "S", and employers Cornwall County Council.

Responding to the announcement, Press for Change Vice President and legal expert, Stephen Whittle said :

The decision means that many transsexuals who have been dismissed from their jobs, because of their transsexuality, since the implementation of the Directive in 1976, may well have a claim for 'sex discrimination', and they are urged to visit a solicitor as soon as possible - sex discrimination claims must be made within 12 weeks of when you KNEW that you had a claim. GO FOR IT - we cannot guarantee whether the UK courts will uphold the time frame, but as they say 'Revenge is a dish best served cold'.

In our Library you can also read Stephen Whittle's review of that recommendation, along with a recent article of his, published in the UK's New Law Journal. (Stephen is a lecturer in law at the Manchester Metropolitan University, Manchester, England).

It will now be necessary for the UK government to respond to the ruling, if necessary by amending the Sex Discrimination Act and the Equal Pay Act, to close the loophole until now enjoyed by employers ... who had argued along with the government that by having a policy to dismiss both M-F and F-M transsexuals, they were acting within the letter of the UK's equality laws.

The ECJ judgment now confirms that ..

"Articles 2(1) and 5(1) of Council Directive 76/207/EEC must be interpreted as precluding the dismissal of a transsexual on account of a change of sex."

Other rights implications are bound to follow, of course, as a result of applying the broader implications of the community's "Equal Treatment Directive"

The announcement comes following a disappointment for "P", earlier in March of this year, when a High Court judicial review ruled that the UK's registrar of Births Deaths and Marriages had not acted unreasonably "at the time" in refusing to alter her birth certificate so that her change of gender status was not immediately apparent to those, like potential employers, who would have reason to request sight of the document. (UK citizens have no other legal form of identity). The loss of that case resulted in "P" now facing a personal bill

for approximately £6,000 in legal expenses and readers, world wide, are urged to help us to help her meet this.

Hundreds of UK transsexuals are now applying to have *their* birth certificates changed as well though now, so that the registrar's policy can be re-examined by the courts in terms of contemporary medical opinion and knowledge. We'll keep you up to date via the web site and email, as this aspect of the campaign develops.

Press for Change activists are naturally delighted with the ECJ decision today. It marks another step towards the organisation's final goal of achieving full civil rights for transsexual people and their families in the United Kingdom. We do this on one of the tightest campaign budgets of modern time. Activists give their time for free. Expenses are seldom claimed. The organisation operates on a shoe string. Yet, by patient and repeated persuasion the organisation is altering the face of not only UK, but European and (we hope, by example) world law.

Campaigning need not be a hopeless exercise. Our successes show this. Reporters and interviewers welcome us into their studios now with friendship and respect. Politicians admit that the lobby mounted by Press for Change to support the Alex Carlile rights bill in the UK parliament was one of the most effective in recent memory. Medical professionals are acquiring the courage to stand up for transsexual people before their peers, and to contribute knowledge to the growing body of research which is drawing back the veil of ignorance and fear surrounding this syndrome.

Compare all this with as little as five years ago. We are changing the world.

Nevertheless, we could do more ... with just a few pounds we can pay for more leaflets to be printed, more stamps to be licked ... more people to be educated and swayed.

We need money. I'm sorry to be blunt, but we do. And if you can afford an internet account, then you can afford a few pounds, dollars, guilders, francs, lire or whatever to help.

Send your money to :

Press for Change, BM Network, London, WC1N 3XX, England

More news will follow when we have it.

Christine Burns

Press for Change, 30th April 1996