

## **Cour d'Appel de Douai, 13 Avril 2004, Dossier No. 03/01408,**

### **1) Reference Details**

Jurisdiction: Court of Appeal of Douai, France

Date of Decision: 13 April 2004

### **2) Facts**

The Mayor of Hautmont was charged with refusing to allow the civil parties to the action the exercise of their right to choose the day of their marriage in accordance with article 75 of the Civil Code, because of their North African origin and/or the fact that they were not Catholic. At first instance the Mayor was sentenced to an 8 month suspended prison sentence and a fine of €1500, his deputy responsible for general administration was sentenced to a 4 month suspended prison sentence and a fine of €300.

### **3) Law**

- Article 75 of the Civil Code
- Articles 225-1, 432-7 and 432-17 of the Penal Code

### **4) Legal Arguments**

The state and the civil parties contended that discrimination on the grounds of origin and religion is considered an offence under articles 225-1, 432-7 and 432-17 of the Penal Code. Upon submitting the full dossier to the Town Hall they were told that Saturday afternoon was reserved for the priority of Christians. Upon further research it appeared that anyone with a North African sounding name was denied the option to marry on a Saturday afternoon.

The mayor maintained that there was no refusal to marry couples, and that decisions were made on the basis of the order in which requests were received. Additionally, the order of marriages was programmed in consideration of whether or not, following the civil registration, the couple had to go to the 'Church'. The Mayor and his deputy appealed the judgments against them by the lower court.

### **5) Decision**

The Court of Appeal upheld the decision of the lower court, finding that article 225-1 of the Penal Code prohibited all forms of discrimination in the exercise of a right. The court concluded that the Mayor had instructed employees not to schedule marriages of North African couples on Saturday afternoons, and that this did constitute a discriminatory practice. The court did not consider that reasons of practicality that provoked a priority for Christian couples constituted a reasonable justification. The Court confirmed that the law criminalises discrimination on the grounds of not belonging to a particular religion, as well as belonging to one.

However, the Court of Appeal did find that there ought to have been greater account taken of the general character of the culprits in their sentencing, and therefore reduced the sentence to a fine of €500 each.

