

Cour de Cassation, Chambre criminelle, 20 June 2006, No. 05-85.888

1) Reference Details

Jurisdiction: Cour de Cassation, Criminal Chamber, France

Date of Decision: 20 June 2006

Case Status: Concluded

2) Facts

The society Hellucha appealed the decision of the Court of Appeal of Poitiers, which had found the society guilty of discrimination and ordered it to pay a fine of €10,000, and €2000 each to Chantal X. and Nicole Y. for the prejudice suffered by them.

3) Law

- Articles 12103, 225-1, 225-2 and 225-19 of the Penal Code

4) Legal Arguments

The society had refused to sell cinema tickets to disabled persons within the cinema 'Rex'. Furthermore, the elevation of the ticket counter and the steps within the cinema leading to the screen made it impossible for disabled persons in a wheelchair to buy tickets and access the cinema screens. The victims, and the association des Paralysés de France, argued that this refusal to sell tickets constituted a refusal to supply a good or service, motivated by a distinction made between individuals on the grounds of their disability, which is a punishable form of discrimination.

The society argued that of the elements of the infraction required, there was not the element of intention, as the refusal to sell tickets was based solely on the fact that there were risks to disabled persons due to the state of the property. They further contended that they were not obliged, by the Law of 11 February 2005, to refurbish the property for disabled access, having demonstrated the technical impossibility of making the property in question accessible. Additionally, they argued that the project to place a wheelchair ramp to provide access would have had the effect of removing five of the eleven emergency exits, creating a security risk.

5) Decision

The court considered that in the first place it was not a failure to make the cinema accessible that was at question, but the refusal to sell tickets to disabled persons. Furthermore, the court said that the society had not demonstrated that rendering the building accessible was technically impossible. The court noted that the Court of Appeal found the appellants guilty because they refused access for disabled persons, despite suggestions from the local council concerning refurbishment for accessibility, and that the technical impossibility had not been demonstrated.

The Court of Cassation found that the Court of Appeal had justified its decision concerning all the elements of the infraction and upheld the judgment, rejecting the appeal.

