



NEWS REPORT

Date: 16 August 2009
Expert: Dieter Schindlauer
Title: Harsh criticism of Asylum system is not protected as “belief”.
Country: Austria

Context

Issue at stake: harassment – public service
Ground of discrimination: of Belief
Source: national Supreme Court decision
Field: Employment
Legislative provisions: §§ 13 and 16 Federal-Equal Treatment Act

Content

Decision of the Court: Supreme Court [Oberster Gerichtshof] Nr.: 9ObA122/07t, 24/02/2009

The plaintiff is a high ranking civil servant at the Federal Asylum Service [Bundesasylamt]. He had written and published a book (in 2004) about the Austrian asylum-system in which he expressed quite strong views about asylum seekers who misuse the right to asylum and generally warns about the asylum system being a loophole for all kinds of criminals and unwanted immigration. He also held press conferences about this topic and revealed internal data to the public. His service reacted with withdrawing his approbation to decide individual cases and other disciplinary measures. Against these measures the plaintiff filed a complaint to the Federal-Equal Treatment Commission and to the courts claiming harassment on the ground of belief [Weltanschauung]. All decisions were negative. Acting as the last instance, the Supreme Court also dismissed the claim in stating that the views he expresses do not fulfil in any way the criteria to be “belief”.

Internet link source and additional information:

[http://www.ris.bka.gv.at/Dokument.wxe?
Abfrage=Justiz&Dokumentnummer=JJT_20090224_OGH0002_009OBA00122_07T_0000_000](http://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Justiz&Dokumentnummer=JJT_20090224_OGH0002_009OBA00122_07T_0000_000)

