



NEWS REPORT

Date: 29 December, 2009
Expert: Latraverse, Sophie
Title: Cour de Cassation, Social Chamber, n° 08-42286, 10 November 2009
Country: France

Context

Issue at stake: Does the request of an employer to change one's surname consist a discrimination on the ground of origin

Ground of discrimination: Race/ethnic origin

Source: National court decision

Field: Employment

Legislative provisions: L1132-1 and L1134-1 of the Labor Code

Content

Case: When the plaintiff started working, he was requested to change his surname from Mohamed to Laurent, which he accepted. After two years of employment he asked to be permitted to use his own surname and be called Mohamed and his request was granted. There is otherwise no evidence of any discriminatory practice by the employer.

There is a wide range practice to impose employees of North African descent to change their names to hide their origin. The plaintiff claims that the request that he is called Laurent at the workplace during two years gave raise to discriminatory working conditions on the ground of origin. He claims damages for having been submitted to discriminatory working conditions.

The employer claims that this request was made because there were four other persons called Mohamed in service, and alleges that the plaintiff contractually renounced to be called Mohamed and has therefore forfeited the right to claim discrimination in working conditions on the ground of the request that he be called Laurent in the workplace.

Decision of the Court: The Court of Cassation ruled that one cannot legally forego the right to be called by his or her own surname. The acceptance of a request to use another surname than one's own cannot be considered as a contractual renunciation to a claim of racial discrimination.

An employer's request to change an ethnically connoted name to a classical French name constitutes a direct discrimination on the ground of origin and no factual circumstances can allow an employer to justify such a practice. Imposing identity change to an employee is a violation of his or her right to dignity.



Internet link source and additional information:

[http://www.legifrance.gouv.fr/affichJuriJudi.do?
oldAction=rechJuriJudi&idTexte=JURITEXT000021270532&fastReqId=543696580&fastPos=1](http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000021270532&fastReqId=543696580&fastPos=1)