

# European Anti-discrimination Law Review

No. 3 - 2006

## United Kingdom

*Case law*

### **Court rejects government challenge to role of Equality Commission for Northern Ireland in enforcing positive equality duty**

In a case which was an application for Judicial Review by the applicant, Peter Neill,<sup>34</sup> the Northern Ireland High Court confirmed that the Equality Commission for Northern Ireland (ECNI), the designated equality body under Article 13 for that region, had the power to find that the Northern Ireland Office had not complied with the positive equality duty imposed on public authorities in Northern Ireland to promote equality.

Section 75 of the Northern Ireland Act 1998 requires public bodies to give due regard to the need to promote equality of opportunity across a range of grounds. To comply with this duty, public bodies are required to produce equality schemes, which are supposed to outline procedures for identifying ways in which greater equality can be promoted. Section 75 expressly provides that the ECNI is to monitor how public authorities comply with this duty.

In this case, an Anti-Social Behaviour Order or ASBO (a court order which restrains an individual from engaging in certain types of conduct) was issued against Peter Neill on the basis that he had engaged in drunken and abusive behaviour. He challenged this by arguing that the court should suspend the making of all such orders, as a full investigation by the Equality Commission had established that the Northern Ireland Office (NIO), in preparing the legislation that permitted ASBOs to be made, had failed to comply with its duties under Section 75. In this report, the Commission said that the NIO had failed to carry out a full assessment of the issuing of ASBOs on different social groups, including young men. The NIO in turn challenged the authority of the Commission to make this finding. The judge held that the Commission's report was not a sufficient reason to suspend the issuing of ASBOs: however, he also found that the Commission had the authority to make the critical findings in the report and to recommend further action by the NIO. An appeal is pending before the Court of Appeal.  
[http://www.courtsni.gov.uk/en-GB/Judicial+Decisions/Judgments/j\\_j\\_girc5372.htm](http://www.courtsni.gov.uk/en-GB/Judicial+Decisions/Judgments/j_j_girc5372.htm)

<sup>34</sup> *The Matter of an Application by Peter Neill for Judicial Review* [2005] NIqb 66