



NEWS REPORT

Date:	25 March 2010
Expert:	Tonio, Ellul
Title:	Failure to provide adequate access for persons with a disability
Country:	Malta
<u>Context</u>	
Issue at stake:	Failure to provide adequate access for persons with disability
Ground of discrimination:	Disability
Source:	Partial Decision of the National Court (Civil Court First Hall)
Field:	Social Protection and Access to Goods and Services
Legislative provisions:	Equal Opportunities (Persons with Disability) Act (Chap. 413 of the Laws of Malta)

Content

Case: The National Commission Persons with Disability (NCPD) filed a sworn application (394/2009) in Court against Banif Bank asking the Court to declare that the Bank had failed to provide adequate access to persons with a disability, and to order the Bank to rectify the infringement, in particular by providing persons using a wheelchair access at its branches in St. Julians and Gzira. As regards the branch in St. Julians a 'platform lift' had been installed but it did not conform with the guidelines established by the NCPD, the Bank claimed the exception established in Art 12(2) of Chap. 413 arguing that failure to conform was due to the particular circumstances relating to the location of the branch (situated at the top of a steep hill, having no pavement and forming part of an Urban Conservation Area). As regards the branch in Gzira, the NCPD's objection related to accessibility of the main entrance to the block within which the Bank's branch was situated. The Bank claimed that under the lease agreement with the landlord, the Bank was not allowed to affect structural alterations, and furthermore since the objection relates to the common area, all tenants together with the landlord should have been sued in order to rectify the infringement.



Decision of the Court: by virtue of a partial decision delivered on the 1st March 2010, the Court rejected the Bank's claim in relation to the Gzira branch holding that it was the Bank's duty to ensure that any premises chosen for the purposes of its operations were compliant with the laws in Malta, and if they were not so compliant the Bank should have chosen other premises or obtained the necessary authorisation from the other tenants/landlord to carry out the alterations required for compliance. The Court also rejected the Bank's dilatory pleas in relation to the form of the proceedings/form of the request and deferred the case for continuation on the 17th May 2010.

Internet link source and additional information:

http://docs.justice.gov.mt/SENTENZI2000_PDF/MALTA/CIVILI,%20PRIM%20AWLA/2010/2010-03-01_394-2009_59707.PDF