



NEWS REPORT

Date:	5 April 2010
Expert:	Rikki Holtmaat
Title:	Men denied access to a discotheque /party when not accompanied by a woman
Country:	The Netherlands
<u>Context</u>	
Issue at stake:	Intersection between discrimination on the ground of sex and sexual orientation
Ground of discrimination:	sexual orientation (and sex)
Source:	Decision national equality body Equal Treatment Commission, Oordeel 2010-19, 11 february 2010.
Field:	access to goods and services
Legislative provisions:	Article 7, par. 1, subsection (a) General Equal Treatment Act (AWGB).

Content

Case: In the Netherlands, many bars, discothèques or organized parties, have as a policy that women who are not accompanied by a man get easier access than men (either or not accompanied by a woman), or that men who are not accompanied by a woman are denied access. Often, this policy is contested as a case of direct discrimination on the ground of sex (see e.g. ETC 2010-17, dd 11 Febr 2010). Sometimes such a policy is (also) challenged as a case of discrimination on the ground of sexual orientation. Discrimination in the area of goods and services is also prohibited in the Netherlands when it concerns sexual orientation. A recent case of the Equal Treatment Commission (ETC 2010-19, dd 11 Febr 2010) concerned a Beach Club that organized 'parties' and that had as a house rule that a party could only be joined in by men who were accompanied by a woman ("Heren vergezeld van dame"). The complaint was made by an organization of homosexuals, who claimed that this was discrimination on the ground of sex and/or sexual orientation. The ETC concluded that the contested house rule makes a direct distinction on the ground of sex because male visitors are required to bring a woman to the party, while the same requirement does not apply to female visitors. For this direct discrimination, no (legally accepted) justification ground can be brought forward. As for the claim that



this also constitutes indirect discrimination on the ground of sexual orientation, the ETC concluded that indeed the particular house rule negatively affects homosexual men, as they cannot attend the party with their partner, while heterosexual men can do so. The Beach Club had given as an objective justification that the house rule contributed to the good atmosphere and to avoiding aggressive behavior on the side of the (male) visitors.

Since the club did not strictly apply the rule and since other means of achieving the goal of a good atmosphere are possible, this argument was not accepted by the ETC. Therefore, the Beach Club had discriminated indirectly on the ground of sexual orientation.

Decision of the ETC: Direct discrimination on the ground of sex / indirect discrimination on the ground of sexual orientation.

Internet link source and additional information:

<http://cgb.nl/node/15048/volledig> (Accessed on March 23, 2010)