



## NEWS REPORT

<b>Date:</b>	10 February 2011
<b>Expert:</b>	Rikki Holtmaat
<b>Title:</b>	Refusal to conclude contract with a homosexual person
<b>Country:</b>	The Netherlands
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Cantonal Court fining building contractor because he refused to conclude a contract with homosexual persons
<b>Ground of discrimination:</b>	Sexual Orientation
<b>Source:</b>	Cantonal Court Arnhem / Wageningen 9 September 2010
<b>Field:</b>	Goods and services
<b>Legislative provisions:</b>	Dutch Criminal Code, Article 429quater

### Content

**Case Law:** A Cantonal Court held that a building contractor breached the criminal law provision that prohibits discrimination in the course of one's professional activities (Art. 429quater Criminal Code). The defendant, the owner of a building company, e-mailed a homosexual person telling that he did not want to make any offer for some reconstruction work at that person's house, after he asked whether that person was possibly living together with another man (as he suspected so, on the basis of the e-mail address). He refused to work for them, since he thought that there was no chance for a fruitful co-operation between them. The defendant stated that on grounds of his religious beliefs, he could not work for or with homosexual persons. The Court first established that the case fell under the (wide) definition of discrimination enshrined in Article 90quater of the Criminal Code. The Court then stated that freedom of religion was indeed at stake, but that this freedom may be restricted by other interests, e.g. the right not to be discriminated against on grounds of sexual orientation. The legislator had balanced those rights when it adopted legal provisions prohibiting discrimination on grounds of sexual orientation. That prohibition therefore prevailed over the freedom of religion. The defendant was sentenced with a EUR 1500 fine, of which EUR 750 was provisional.



**Internet link source and additional information:**

**Reference number:** LJN: BN8113

**Address of the webpage:** <http://zoeken.rechtspraak.nl/>

(Search term: LJN BN8113) Last accessed 10 February 2011)