

Voices of ILGA-Europe: Meet Italian legal eagle, Emiliano Ganzarolli

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The Court of Justice of the European Union has just made a landmark decision, saying that a lawyer who declared that he would never hire a “homosexual” person in his law firm was discriminating under an EU employment directive. Meet activist Emiliano Ganzarolli, from the powerhouse group of LGBT lawyers who took the case.

Emiliano Ganzarolli is a member of [Rete Lenford Avvocatura Per I Diritti LGBT](#) (Lawyers For LGBT Rights) an association of about 150 lawyers founded in 2007 to take representative action on the behalf of LGBT people before national and international jurisdictions, and to ensure enforcement of LGBT rights in Italy.

The association has notably been active in the fight for marriage equality, and the implementation of a civil partnership framework for same-sex couples.

“In 2007 there was nothing in the Italian law concerning either civil unions or marriage and the association itself was actually founded because of this lack in our system,” says Emiliano in an interview filmed for the [Voices of ILGA-Europe](#) project last October. “It brought together lawyers and activists from the civil society to bring cases up to the constitutional level. In 2010 the constitutional court was asked to deliver a judgement on the possibility or not to have equal marriage in Italy. **The case was not successful, we still don’t have equal marriage in Italy, but that was the beginning of many battles the association took.**”

Recently, the Association was involved with **the first case in Italy involving discrimination in an employment context**, after an attorney declared during a radio interview that he would never hire a homosexual person in his law firm.

The case was brought in front of a tribunal in the Court of Appeal by Rete Lenford. “It was successful in the first instance, and the second, and then the case was appealed in front of the Supreme Court in Italy,” Emiliano explains. “The Supreme Court referred the case to the Court of Justice of the European Union (CJEU).”

“When we received the communication that the Supreme Court had referred the case to the CJEU, it was the immediate reasoning to involve an umbrella association, somebody able to actually properly talk at the same level with the European institutions. **So it came naturally to involve ILGA-Europe in this. [ILGA-Europe’s litigation department](#) has been extremely supportive, especially putting us in contact with the other EU countries.**”

Two distinct questions arose before the Italian Supreme Court: Firstly, does legislation prohibiting discrimination in access to employment also cover a general statement made on the radio to the effect that the interviewee would not recruit homosexuals to his law firm? Secondly, in the absence of an identifiable victim, is it possible for Rete Lenford to seek to enforce the prohibition of discrimination in employment and occupation, including through the award of damages?

In a judgement delivered on 23 April 2020, the CJEU decided on behalf of Rete Lenford. Importantly the Court noted that the lawyer's statements may fall within the ambit of the European Union anti-discrimination directive, even if no recruitment procedure had been opened or planned at the time when the statements were made.

Because discriminatory statements can have a chilling effect on prospective employees, therefore difficult to have an identifiable victim, the Court noted that where national law provides relevant conditions, an association, as in this case Rete Lenford, may bring legal proceedings for a finding of discrimination and for a sanction to be imposed.

Welcoming the judgement, Senior Litigation Officer with ILGA-Europe Arpi Avetisyan said: "I'm extremely pleased that CJEU reaffirmed protection against homophobia in employment and made clear that discriminatory statements in employment and occupation under the EU law are strictly prohibited. The Court sent a strong message that EU law does not tolerate discrimination based on sexual orientation and safeguards "the principle of equal treatment in employment and occupation, and the attainment of a high level of employment and social protection". Congratulations to Rete Lenford on the victory and for setting an important milestone in clarification of EU law."