Oliari and Others and Orlandi and Others v Italy

Case Law, Legal Protection, Civil Partnership, European Court of Human Rights, Family, Italy, Marriage Equality, Strategic Litigation

Same-sex marriage/ Civil union

Oliari and Others (No. 18766/11),

Orlandi and Others v Italy (No. 26431/12), 27 Mars 2014

Find Court's judgement here. (Violation of Article 8 of the Convention and award of damages)

Oliari and others, Orlandi and others v. Italy Download

- The applicants complained that the Italian legislation did not allow them to get married or enter into any other type of civil union and thus they were being **discriminated** against as a result of their sexual orientation.
- The European Court of Human Rights delivered its judgement on 21 July 2015.
- The Court made a lengthy reference to the submission, particularly the demonstration of the positive **obligation to provide some means of recognition** supported by the emerging consensus in European and other democratic societies (paras 134-139) and of the **indirect discrimination** against same-sex couples (paras 140-143).
- The Court found that the Italian Government had overstepped their margin of appreciation and failed to fulfil their positive obligation to ensure that the applicants have available a specific legal framework providing for the recognition and protection of their same-sex unions (para 185). To find otherwise today, the Court would have to be unwilling to take note of the changing conditions in Italy and be reluctant to apply the Convention in a way which is practical and effective (para 186). It found violation of Article 8 of the Convention, and considered unnecessary examining the allegations under Articles 14 in conjunction with 8, and Article 12.