



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 159/13

Luxembourg, 12 December 2013

Judgment in Case C-267/12

Frédéric Hay v Crédit agricole mutuel de Charente-Maritime et des Deux-Sèvres

Employees who enter into a civil partnership with a partner of the same sex must be granted the same benefits as those granted to their colleagues upon their marriage, where marriage is not possible for homosexual couples

The refusal to grant them those benefits constitutes direct discrimination based on sexual orientation

At the time of the facts of the case¹, the relevant French legislation restricted marriage to persons of different sexes.

Mr Hay is an employee of Crédit agricole mutuel, whose collective agreement² grants certain benefits – days of special leave and a salary bonus – to employees on the occasion of their marriage. Mr Hay, who had entered into a PACS arrangement (civil solidarity pact) with his same-sex partner, was refused those benefits on the ground that, under the collective agreement, they were granted only upon marriage.

Mr Hay challenged that refusal before the French courts. The Cour de cassation (France), before which the case was brought at the highest level of appeal, asked the Court of Justice whether the difference in treatment for persons who have entered into a PACS arrangement with their same-sex partner constitutes discrimination based on sexual orientation, which is prohibited under EU rules on employment relations³.

In its judgment delivered today, the Court examines, first of all, whether persons who enter into a marriage and persons who, being unable to marry a person of their own sex, enter into a PACS arrangement, are in comparable situations for the purpose of the grant of the benefits in question. The Court finds in that regard that, like married persons, persons entering into a PACS arrangement commit, within a specific legal framework, to living a life together and to providing material aid and assistance to each other. The Court further observes that, at the time of the facts in the main proceedings, the PACS arrangement was the only possibility under French law for same-sex couples to procure legal status for their relationship which could be certain and effective against third parties.

Consequently, the Court concludes that the situation of persons who marry and that of persons of the same sex who cannot enter into marriage and therefore conclude a PACS is comparable for the purpose of the grant of the benefits in question.

Next, the Court holds that the collective agreement, which provides for paid leave and a bonus for employees who marry whereas marriage is not possible for persons of the same sex, gives rise to direct discrimination based on sexual orientation against homosexual employees in a PACS arrangement. The fact that the PACS is not restricted only to homosexual couples does not change

¹ Marriage between persons of the same sex was allowed in France by Law No 2013-404 of 17 May 2013.

² Crédit agricole mutuel's national collective agreement was amended on 10 July 2008 to extend the benefits at issue to people in a PACS arrangement but, as that extension could not be given retroactive effect, it does not apply to Mr Hay's situation, who entered into a PACS arrangement with his partner on 11 July 2007.

³ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

the nature of the discrimination against those couples who, unlike heterosexual couples, could not, at the material time, legally enter into marriage.

Lastly, as the unfavourable treatment of couples in PACS arrangements may not be upheld on the basis of any of the overriding reasons in the public interest provided for by the Directive, the Court's answer is that the disputed provision of the collective agreement breaches EU Law.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355