

Employment Law

Veganism – a belief protected by law in the UK

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UK employment tribunal made headlines by finding ethical veganism to be protected by employment equality law.

A recent UK employment equality decision which has found ethical veganism to be a belief protected by law and whether a similar claim in Ireland would be successful, given the differences between the UK and Irish employment equality law.

An employment tribunal in the UK found, in the case of *Casamitjana v. League Against Cruel Sports*, that ethical veganism is a philosophical belief protected against discrimination in the workplace by the UK's Equality Act 2010.

Background

This case involved an employee who claimed he was unfairly dismissed by an animal welfare charity because he is a vegan. The charity said he was dismissed for gross misconduct after he allegedly disclosed to colleagues that the charity had invested its pension fund in companies involved in animal testing. The charity said it was "factually wrong" to link his dismissal to his veganism and in fact did not contest whether ethical veganism should be protected or not. At a preliminary hearing, Judge Robin Postle ruled that ethical veganism qualified as a philosophical belief under the UK's equality Act 2010 and therefore is entitled to similar protections as religious beliefs.

'Religion and belief' is one of nine protected grounds under the UK's Equality Act 2010. The others are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, sex and sexual orientation. 'Belief' is defined as any religious or philosophical belief and belief includes a lack of belief.

Protected grounds in Ireland

Discrimination in the workplace is prohibited in Irish Law under the Employment Equality Acts 1998-2015, as amended, on any of the following nine grounds:

1. The gender ground;
2. The family status ground;
3. The sexual orientation ground;
4. The religion ground;
5. The age ground;
6. The disability ground;
7. The ground of race; and
8. The traveller community ground.

The religion ground is defined as '*that one has a different religious belief from the other, or that one has a religious belief and the other has not*', while 'religious belief' is defined as '*including a religious background or outlook*'. Crucially, there is no general "belief ground" under Irish Employment Law and therefore, the religion ground under Ireland's Employment Equality Acts can be distinguished from the UK's Equality Act 'religion and belief' ground, on the basis that it does not extend to cover non-religious belief.

Whilst to date no case of the nature of the *Casamitjana* case has been taken under the Employment Equality Acts, if one was being contemplated, it can be said that the religion ground under the Employment Equality Acts is specific to religious beliefs and therefore would not cover non-religious beliefs such as ethical veganism.

Case law

There is no test in Irish Law to determine whether a belief is religious or not, however the test for determining if a prima facie case for discrimination exists starts with determining if one of the nine grounds applies. The rest of the test as was set out in the case of *Sheeran v Office of Public Works* [DEC S2004], is as follows:

1. Applicability of the discriminatory ground;
2. Evidence of specific treatment of the complainant by the respondent;
3. Evidence that the treatment received by the complainant was less favourable.

In that case the complainant, a humanist, argued that bells in a disused church should not be rung daily by the occupier, a State body, because the church was no longer used for worship. An Equality Officer found there was insufficient evidence proffered to determine if humanism is a religion for the purposes of the Employment Equality Acts and instead found the practice of ringing the church bells had Catholic associations. Therefore, the claim was considered on the basis that one party had religious belief and the other did not.

In the case of *A Teacher v A National School* [EE/2012/019] an Equality Officer, in a decision affirmed by the Labour Court, found that religious belief, as defined in Section 2 of the Employment Equality Acts, includes specific attitudes but those attitude must be associated with religious belief or religious outlook.

Conclusion

It seems from the above analysis that ethical veganism would not fall under the religion ground under the Employment Equality Acts. Nor would it fall under any of other discriminatory grounds. Therefore, a claim in the nature of the *Casamitjana* case, where an employee claimed to be discriminated in the workplace because of their belief in ethical veganism, would likely not succeed in this jurisdiction.