

Tribunale Amministrativo regionale del Lazio, sentenza n. 8990/2016

No 8990/2016: Regional Administrative Tribunal of Lazio, Italy: 2 August 2016.

*Human Rights – Freedom of religion or belief - Conscientious objection to abortion – Doctors’ right to freedom of conscience - Women’s right to health – Provisional administrator’s decree obliging Family Advice Bureaux doctors to issue both certificate of pregnancy and certificate for undergoing its voluntary interruption - Whether doctors of Family Advice Bureaux, who objected to morning after pill, entitled to refuse to issue a certificate of pregnancy or a certificate for undergoing voluntary interruption of pregnancy– Whether entitled to refuse the prescription and administration of “morning after pill” – Italian Constitution, art 32 - Law 194/1978, art 9 – Provisional administrator’s decree of 22 May 2014*

The Administrative Tribunal ruled that the provisional administrator’s decree of 22 May 2014 obliging Family Advice Bureaux doctors to issue both a certificate of pregnancy and a certificate for undergoing its voluntary interruption did not violate the doctors’ right to freedom of conscience. First, those activities represented professional duties. In providing the certificates doctors were not “specifically and directly” taking part in an abortion procedure, as required by the exemption set out in the conscience clause of the Italian Abortion Act (article 9 of law 194/1978). Second, women might change their mind and decide not to abort. Therefore, the bare act of certifying a women’s pregnancy was a preliminary act and it did not affect the objectors’ conscience.

With reference to “morning after pills”, the Legislator considered the implantation of an egg cell as the very beginning of pregnancy. Such drugs took effect before the implantation, preventing the start of pregnancy. Consequently, the exemption from their prescription and administration could not be subsumed under the conscience clause provisions of the Abortion Act.

In general terms the right to freedom of conscience ought always to be balanced with a women’s right to health pursuant to article 32 of the Italian Constitution.

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