

FACTS

Anna Miller (A), a children's book author and openly homosexual, wrote a book of eight good-night stories. The protagonists of two of these stories were in a same-sex relationship. One story featured a trans-woman. The author thought to further social inclusion of various marginalised social groups, such as Roma, persons from different racial backgrounds, persons with disabilities, divorced families and stories around issues such as emigration and bullying. The book was aimed at eight to nine-year-old children. Before publication, it passed a peer review at the University of Educational Science during which it was examined by several leading specialist on children's pedagogics.

Soon after the book was published by the University publishers, members of the Parliament in Malta expressed concerns about the presentation of stories about same-sex couples and trans-people to children, calling it an "annotated propaganda for homosexuality". They relied on complaints made by the association representing families. Subsequently, the distribution and sale of the book were temporarily suspended. 1000 copies translated to English could not be delivered to several university libraries across Europe. It continued to be available to readers online. Later, the distribution and sale of the book were resumed but the book was marked with a warning label stating that its contents could be harmful to children under the age of 14. This was done, pursuant to the indication by the Inspectorate of Journalistic Ethics which found that in so far as they encouraged a concept of marriage and family differently from the one enshrined in the Constitution and law of Malta as well as portrayed gender identities that do not correspond to the sex assigned at birth, the three good-night stories contained information which was harmful to children, within the meaning of the 'Children's Protection Act' (CPA). According to § 1 CPA the distribution of information which may be harmful to minors is prohibited. § 2.1 CPA stipulated that 'information harmful to minors' is "any public information which may negatively affect their mental or physical health or their intellectual, spiritual or ethical development". § 2.2 CPA contains a list of public information which is considered to be harmful to minors, including i.a. the following:

- 1) that which is of an erotic nature;
- 2) that which encourages behaviour demeaning human dignity;
- 3) that which demeans or denigrates a person or a group of people because of their nationality, race, sex, origin, disability, sexual orientation, social status, language, belief, views, or other similar grounds;
- 4) that which encourages sexual relations;
- 5) that which expresses contempt for family values, [or] encourages a different concept of marriage and creation of family from the one enshrined in the Constitution and the Civil Code;
- 6) that which promotes gender identities that do not correspond to the sex assigned at birth;

7) that which contains obscene phrases or words or indecent gestures; [...]

A unsuccessfully brought civil proceedings against the publisher and filed a constitutional complaint, which was dismissed.

Q1: a) To which institutions could A file applications/complaints? Which procedural avenue should they choose?

b) What could the European Commission do?

Q2: Assume that these applications/complaints are admissible, what rights could be violated?

Q3: Draw up a scheme for a complaint/application before one institution, based on which you would address the alleged discrimination issue in this case. Analyse the circumstances of the case, based on the drawn-up scheme.

Anna Miller

Anna Miller is a renowned Maltese children's book author. She was born on 24th September 1974 in the small town of Mdina daughter to Joseph Miller and Chiara Calleja. The second of five sisters, Miller grew up speaking both English and Maltese. The author's parents, both extremely devout Catholics, discouraged her general interest in the arts and raised their children to honour the rules and values of the Catholic Church. After coming out as a homosexual at the age of 24 Anna became a political activist for the rights of marginalised groups, particularly the LGBTQ+ Community. Her declared aims are to further social inclusion of various marginalised social groups, such as Roma, persons from different racial backgrounds, persons with disabilities, divorced families and raise issues such as emigration and bullying to public attention. Anna has been working and living in her vivid apartment in 223, Merchant Street, Valletta. You may contact Ann via E-Mail (anna.miller@gmail.com) or telephone (+356 171 666 666).

