

Security Classification - Cote de sécurité
CONFIDENTIAL
File number - numéro de dossier
9010-89
Date
86-12-23

MEMORANDUM/NOTE DE SERVICE

TO/A: Director, Departmental Security

FROM/DE: Yvon Vanasse
Legal Services - R.C.M.P.

SUBJECT/OBJET: Security/Reliability Clearance Process (Applicant);
Canadian Human Rights Act

Comments/Remarques

This is further to correspondence from this office, dated 86-10-23, informing you that your request was referred to me for reply.

I should point out at the outset that the purpose of the Canadian Human Rights Act, which sets out the prohibited grounds of discrimination, is to "... extend the present laws in Canada to give effect ... to the principle that every individual should have equal opportunity... to make for himself or herself the life that he or she is able and wishes to have, consistent with his or her duties and obligations as a member of society, without being hindered or prevented from doing so by discriminatory practices ...". (The underlining in mind).

It is in the light of this purpose that one should interpret the provisions of that Act, including the contemplated amendments that would add "sexual orientation" to the prohibited grounds of discrimination.

Considering the foregoing, I am of the view that such amendment to that federal Statute would not preclude bona fide inquiries by field personnel into the sexual orientation (e.g. the homosexual conduct) of an applicant if they are for the purpose of determining his or her loyalty to Canada and reliability.

Neither the equal opportunity principle, nor the prohibition from engaging in a discriminatory practice, would prevent inquiring into the individual characteristics of an applicant in order to ensure that he is assessed on the basis of such particular and personal characteristics and that he is not discriminated because of stereotypical expectations that may be attached to homosexuality.

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Noted. Orig. to GDS-1600-1-37.
and copy to GDS-1600-1-37.

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Comments/Remarques

I trust that the foregoing will sufficiently answer your request; however, if you need further advice or clarification, please call me at 993-0855.


Yvon Vanasse
Legal Counsel