

Cases and rulings

Country Code	Year	Reference details title	Reference details URL	Hate Bias motivation	Court / Body	Key facts of the case	Results (sanctions, outcome) and key consequences or implications of the case	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Key quotation in original language and translated into English with reference details
Sweden	2021	Sweden / Supreme Court / Målnummer Ö 2343-18	https://www.domstol.se/hogsta-domstolen/avgoranden/2021/105979/	Racial or ethnic origin	Supreme Court (Högsta Domstolen)	The case concerned a passenger of Chilean origin (PAG) who was subjected to an extra security check in connection with a domestic flight in Sweden. The Equality Ombudsman (Diskrimineringsombudsmannen, DO) brought an action, claiming that the airline had subjected PAG to direct discrimination by assuming him to be an Arab person and forcing him to undergo an extra security check. The airline had therefore disadvantaged PAG for reasons relating to his physical appearance and ethnicity. The District Court issued a judgment requiring the airline to pay discrimination compensation. No substantive examination was conducted, and the airline did not certify discrimination. DO appealed the decision to the Supreme Court who requested a preliminary ruling from the European Court of Justice.	Based on the preliminary ruling from the European Court of Justice, the Supreme Court held that the airline's testimony met the requirements for a categorical and unreserved testimony set by the European Court of Justice. The Supreme Court subsequently rejected DO's appeal.	The European Court of Justice found that persons who consider themselves discriminated against has the right to an examination on the merits when the other party denies that the discrimination has taken place. The Supreme Court held that during its subsequent proceedings, the airline certified discrimination in a way that met the requirements of a categorical and unreserved testimony as set by the European Court of Justice. Consequently, the Supreme Court did not examine the case on the merits.	The Supreme Court requested a preliminary ruling from the European Court of Justice on the following: must a national court, in cases where it is requested by the person subject to the alleged discrimination, examine whether discrimination has taken place - and if so state that this has happened - regardless of whether the subject accused of discrimination has or has not certified that discrimination has taken place.	"15. Av EU-domstolens dom framgår att en domstol måste kunna pröva ett yrkande om fastställelse av att diskriminering skett när svaranden har medgett att betala ersättningen utan att för den skull vitsorda att det skett någon diskriminering." "16. Det BRA har angett får anses innebära att bolaget vitsordar att bolaget har diskriminerat PAG i enlighet med grunden för dennes ersättningsyrkande." "15. The judgment of the European Court of Justice states that a court must be able to hear a claim to determine whether discrimination has taken place when the defendant has agreed to pay the compensation without acknowledging that there has been any discrimination." "16. What BRA has stated is considered to mean that the company certifies that the company has discriminated against PAG in accordance with the basis for his claim for compensation."

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