

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
Spain	2013	Spain / Supreme Court Contention-Administrative court, Section 7 / STS 653/2013	http://www.poderjudicial.es/search/doAction?action=contentpdf&database=match=TS&reference=6650443&links=velo%20integral&optimize=20130308&publicinterface=true156	Religion, Sex/Gender	Supreme Court	In February 2013 the Supreme Court declared void a decision of the City Council of Lleida (Catalonia, Spain) in 2010 to prohibit people who wear the full veil (burka or niqab) from accessing or remaining in public spaces. The Watari Immigrants Association for Freedom and Justice (Asociación de Inmigrantes Watari por la Libertad y la Justicia) had previously appealed the decision of the City Council of Catalonia which upheld the decision (judgment 489/2011 of 7 June 2011). The Supreme Court finds that the decision of the City Council of Lleida and the previous judicial decision fail to adequately take into consideration that the use of veils is a manifestation of religious freedom and that according to the Spanish Constitution and to the case law of the European Court of Human Rights, limitations can only be established through a law and showing that the limitations respond to a need in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.	The Spanish Supreme Court struck down a city ban on wearing veils over the face in municipal buildings, finding that the law infringes on religious freedom. It does override the ruling of the Justice High Court in Catalonia which considered appropriate the right of the municipal Ordinance of the Lleida City Council that limited or prohibit the access to public spaces or offices of public service to people with full-face veil. The Supreme Court found that instead of serving to the extinction of discrimination, it could contribute to increase it if public spaces are closed to those women.	The fundamental argument in the judgment was that the use of the veil by some women is part of their religious freedom. The Lleida municipal ordinance was previously upheld by a Spanish appeals court which found that the law was permissible for identification and security purposes. But the Supreme Court found that the city of Lleida had not adequately established that the ban on veils would improve security and that the law prevented individuals from practicing religious traditions.	Religious freedom is a fundamental right recognised in the Spanish Constitution (Art. 16) that can only be further regulated by a law passed in Parliament. Thus, the City Council did not have the power to limit the freedom of religion by imposing a ban on wearing the full veil. But, the Court's ruling did not preclude the possibility for the legislator (the Spanish Parliament) to consider as appropriate a regulation on the wearing of the full veil. This was the first Spanish ban of the full veil.	"La finalidad de proteger derechos y libertades ajenos, no puede así justificar la limitación de un derecho constitucional de una persona que tenga como finalidad la protección de los derechos de esta, pues éstos no son derechos y libertades ajenos" "the aim to protect others' rights and freedoms cannot justify the limitation of a constitutional right of a person that is intended for the protection of the rights, as these are not rights and freedoms of others"

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