DATABASE 2012-2024 ON ANTI-MUSLIM HATRED

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	2014	Sweden / Supreme Court / Case no. T 3592-13	https://www.domstol.se/hogsta-domstolen/avgoranden/2014/36651/	Religion	Supreme Court (Högsta domstolen)	The Supreme Court found a bus company guilty of discrimination of two passengers through the actions of its employee. A woman with hijab and her husband sat on the bus when the driver stopped, pushed away the woman's knee from the stop button and shouted that they should return to "Taliban country". The Discrimination Ombudsman pressed charges for ethnic and religious discrimination and harassment (trakasserier). The District Court found the bus company guilty of discrimination and sentenced it to pay a discrimination award. The Discrimination Ombudsman found the discrimination award much too low and appealed to higher courts.	The Supreme Court delivered its ruling on 26 June 2014. The Court found the discrimination serious enough to raise the reparation compensation from 10,000 SEK (1,049 Euro) to 15,000 SEK (1,573 Euro) each. However, the Court found insufficient reasons to increase the prevention supplements, which remained 10,000 SEK per person. Consequently, the total discrimination awards that Veolia should pay to the injured parties amount to 20,000 SEK (2,098 Euro) to 25,000 SEK (2622 Euro) per person.	The Supreme Court found the discrimination and violation was of a serious nature and considered that it was clearly intended to offend the plaintiffs. The insults were also uttered in public. However, the discrimination was a one-time event and the Court argued that the incident could not be considered to have led to any lasting damages for the plaintiffs. Since award of damages is not a tradition in Swedish legal history, the Court argued that the prevention supplement (preventionspåslaget) should not be so high that the reparation compensation (upprättelseersättningen) appears insignificant in comparison. To avoid this, the prevention supplement should be equal to the reparation compensation. Taking the characteristics of the discriminating act and its effects into account, the Supreme Court did not find sufficient reason to increase the prevention supplement of the Discrimination award.	The key issue concerned the determination of the discrimination award and especially the recommended size of the prevention supplement of the award. The Discrimination Ombudsman argued that in order for the discrimination award to become real preventive mechanism, the prevention supplement be much higher. The reparation compensation is important but the main reason of the introduction of a discrimination award was to prevent actors from discriminating in the first place. Both the District Court and the Court of Appeal disagreed with the Discrimination Ombudsman based on the facts that Sweden had no legal tradition of large damages and the reparation compensation must be at equal level with the prevention supplement of the discrimination award.	"I 6 kap. 3 § diskrimineringslagen finns en bestämmelse om bevisbördan I diskrimineringsmål. Bestämmelsen innebär att den som anser sig ha blivit diskriminerad ska visa omständigheter som ger anledning att anta att han eller hon har blivit diskriminerad. Därefter går bevisbördan över till den som påstås ha diskriminerat, som då har att visa att diskriminering inte har förekommit. Avsikten är att den som anser sig ha blivit diskriminerad ska åtnjuta bevislättnad. " "In summary, the Court of Appeal finds that the Discrimination Ombudsman has not shown any circumstances that give the court reason to assume that Z.B. have been discriminated in the manner stated. " "Sammantaget anser hovrätten att Diskrimineringsombudsmannen inte har visat omständigheter som ger anledning att anta att Z.B. blivit diskriminerad på det sätt som påstås. " "Chapter 6, Section 3 of the Discrimination Act contains a provision on the burden of proof in discrimination cases. The provision stipulates that the person who considers him-/herself discriminated against must show circumstances that give grounds for believing that he or she discriminated. Thereafter, the burden of proof moves to the allegedly discriminating person, who has to show that the discrimination did not occur. The intention is that the person who considers him-/herself discriminated against should not bear the burden of proof." Sweden, Supreme Court (Högsta domstolen), case number T 3592-13. The case can be found online by searching for the case number on the search engine for precedent rulings, available at: www.rattsinfosok.dom.se/lagrummet/index.jspin question using the case number

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