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	2016	Sweden / Scania and Blekinge Court of Appeal / Case number T 1157-15		Religion	Scania and Blekinge Court of Appeal (Hovrätten över Skåne och Blekinge)	A health care provider was found guilty of discrimination on the ground of religion after an incident where a doctor did not examine a Muslim woman when she did not shake his hand because of her faith. The Discrimination Ombudsman (Diskrimineringsombudsmannen) sued the employer of the doctor, a health care company, for discrimination on the grounds of religion. On the basis of the witness statements, Hässleholm District Court (Hässleholms tingsrätt) found that the company had violated the prohibition of discrimination for the provider of services through the actions of its employee.	The Court of Appeal changed the verdict of the District Court and dismissed the Ombudsman's action. The Court released the health care company from the obligation to reimburse the Discrimination Ombudsman for the costs of the processing in the District Court. Instead, the Discrimination Ombudsman was obligated to reimburse the health care company for its costs for the processing in the District Court with 335,243.50 SEK (35,047 Euro) and another 75,000 SEK (7,841 Euro) for its costs for the processing in the Court of Appeal.	The Court of Appeal of Skåne and Blekinge found discrepancies in the statements of the Muslim patient and her friend that accompanied her. For example, the Court mentioned that while the plaintiff stated that she did not speak when she was in the examination room; her friend stated that the plaintiff said “hi”. Furthermore, the Court questioned the reliability of the interpreter’s witness statement since the sequence of events was of short duration. The Court stated that the interpreter most likely had been primarily focused on the interpretation. According to the ruling of the Court, the Discrimination Ombudsman had not been able to show that the doctor had indeed discriminated the plaintiff, that is, the Ombudsman had not been able to convince the Court of the probability of the alleged crime. The charges against the health company were dismissed.	The key issue concerned to what extent discriminated parties have to prove that it is likely that another person or company has discriminated against them, when one person’s word stands against another’s. The differences between the rulings of the District Court and the Court of Appeal show that the same case material can be interpreted so differently that the first instance finds that the plaintiff had been discriminated on the grounds of her religion, while the second level finds minor discrepancies in the statements supporting the claim of the injured party sufficient to consider that it has not been proven that the incident was a case of discrimination. The legal counsel of the Discrimination Ombudsman commented that the ruling showed the difficulty to bring a discrimination case before the court when the only evidences are the statements of the parties and the witnesses.	"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. " "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 burder of proof. " "Sammantaget anser hovrätten att Diskrimineringsombudsmannen inte har visat omständigheter som ger anledning att anta att Z.B. blivit diskriminerad på det sätt som påstås. " "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. " Sweden, Scania and Blekinge Court of Appeal (Hovrätten över Skåne och Blekinge), case number T 1157-15. The case is not available online but can be requested from the court in question using the case number.

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