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
United Kingdom	2016	United Kingdom / (Court of Appeal) Onu v. Akiwu and another [2014] EWCA Civ 279	https://www.supremecourt.uk/cases/docs/uksc-2014-0105-judgment.pdf	Nationality	United Kingdom Supreme Court	The claimants were Nigerian women who came to the United Kingdom on migrant domestic worker visas to work as domestic servants. They were treated badly by their employers, many of their employment rights were denied and they were subjected to abuse and exploitation. They brought proceedings in the Employment Tribunal for, among others, racial discrimination, harassment and victimisation. The issue for the Court of Appeal was whether discrimination against an employee because he or she is a vulnerable migrant worker constituted either direct or indirect racial discrimination, different Employment Tribunals having reached different conclusions.	As the appellants lost, there were no sanctions. The Supreme Court failed the appeals.	The relevant provision of the Equality Act 2010 prohibits discrimination "because of" a person's race, which included a person's nationality. The court first looked at whether the discrimination had been "because of" the immigration status of the claimants. The court accepted that the immigration status of the claimants was not in itself the primary reason for their mistreatment: the respondents were not hostile to, or prejudice against, holders of domestic worker visas as such. Instead, the claimants' vulnerability deriving from their immigration status afforded an opportunity for the respondents to mistreat them for other reasons. As such, the claimants' immigration status significantly influenced the respondents' mental processes which was sufficient to find that the mistreatment was "because of" their immigration status. The court then looked at whether discrimination because of "immigration status" was a form of discrimination because of "nationality". The court held that immigration status was not synonymous with "nationality", and that the mistreatment had not, therefore, been because of their nationality. The court therefore rejected the appeals.	They key issue was whether discrimination against an employee because he or she is a vulnerable migrant worker constituted either direct or indirect racial discrimination. The court held that it was not. The consequence of the case is that vulnerable migrant workers who are mistreated because of their status as a vulnerable migrant cannot bring claims of race-based discrimination.	Supreme Court held that "neither appellant has suffered race discrimination because the reason for their abuse by the respondents was not nationality but their vulnerability as a particular kind of migrant worker". Court of Appeal: "It is now well-established that discrimination on a particular ground will only be treated as discrimination on the grounds of a protected characteristic if that ground and the protected characteristic exactly correspond. (...) There is no such exact correspondence in the present case." [Lord Justice Underhill, paras 49-50]

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