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
Belgium	2017	Belgium / ECtHR / Application no. 4619/12 / Dakir v. Belgium	http://hudoc.echr.coe.int/eng/?i=001-175139	Religion	European Court of Human Rights, ECHR	The case concerned a by-law adopted in June 2008 by three Belgian municipalities (Pepinster, Dison and Verviers) concerning a ban on the wearing in public places of clothing that conceals the face. In August 2008, Ms Dakir, presenting herself as a Muslim who had decided on her own initiative to wear the niqab applied to the Conseil d'État (Council of State) for the annulment of the ban. She claimed, among other things, that the provision expressly concerned the Islamic clothing worn by her and that the resulting ban constituted an interference with her rights. She also contended that the interference had no legitimate aim as secularism was not a constitutional principle and the wearing of the veil could not be subject to a blanket ban.	The European Court of Human Rights held, unanimously, that there had been: no violation of Articles 8 (right to respect for private and family life) and 9 (right to freedom of thought, conscience and religion) of the European Convention on Human Rights, no violation of Article 14 (prohibition of discrimination), taken together with Articles 8 and 9 of the Convention, and a violation of Article 6 § 1 (right of access to a court). The Court held that Belgium was to pay Ms Dakir 800 euros (EUR) in respect of costs and expenses.	The Court found in particular that the ban imposed by the joint by-law of the municipalities in the Vesdre police area could be regarded as proportionate to the aim pursued, namely the preservation of the conditions of "living together" as an element of the "protection of the rights and freedoms of others. It therefore held that the contested restriction could be regarded as "necessary" "in a democratic society", and that the question whether or not it should be permitted to wear the full-face veil in public places in Belgium constituted a choice of society.	The Court found in particular that the ban imposed by the joint by-law of municipalities in the Vesdre police area could be regarded as proportionate to the aim pursued, namely the preservation of the conditions of "living together" as an element of the "protection of the rights and freedoms of others. It therefore held that the contested restriction could be regarded as "necessary" "in a democratic society", and that – similarly to the situation which had previously arisen in France (S.A.S. v. France2) – the question whether or not it should be permitted to wear the full-face veil in public places in Belgium constituted a choice of society.	"The Court noted, firstly, that the contested ban had a legal basis – the joint by-law of the municipalities included in the Vesdre police area – and thus met the criteria set out in its case-law concerning Articles 8 and 9 of the Convention. Secondly, as in the case of S.A.S. v. France2, the Court considered that the aim of ensuring the observance of the minimum requirements of life in society could be considered as part of the protection of the rights and freedoms of others, and that the contested ban could be regarded as justified in its principle solely in so far as it sought to guarantee the conditions of "living together"."

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